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INTRODUCTION

This chapter provides policies and procedures for non-agency adoption placements, other court ordered services, adoption searches, and inter-country adoptions.

NON-AGENCY PLACEMENTS FOR ADOPTION

Adoption is a social and legal process which establishes the relationship of parent and child between people who do not have this relationship by birth. It provides the same rights and obligations that exist between children and their birth parents.

Virginia statutes allow a child to be placed with an unmarried individual married couple.

Adoption procedures are governed by Chapter 10.2 of the Code of Virginia. There are only two types of adoptive placements that are allowed by Virginia law. These are agency placements and non-agency placements.

Agency placements occur when the child is in the custody of a local department of social services or licensed child-placing agency. In an agency placement, all parental rights are terminated, custody with authority to place for adoption is granted to the agency, and the agency consents to the child's adoption. See Volume VII, Section III, Chapter C for policy governing agency placements.

A non-agency placement occurs when the child is not in the custody of an agency. In a non-agency placement, the birth parents or legal guardian(s) consent to the adoption, and parental rights are terminated by entry of the final order of adoption.

Except for licensed or duly authorized child-placing agencies, only birth parents and legal guardians are allowed to place a child for adoption in Virginia. Although anyone may provide assistance to birth parents in locating a prospective adoptive family and to adoptive parents in locating a child, only birth parents and legal guardians may actually place the child for adoption.

There are basically three different types of non-agency adoptions. These stepparent adoptions, parental placement adoptions, and adult adoptions. Policies and procedures governing each type of adoption are listed in the following pages.

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OTHER COURT ORDERED SERVICES

In addition to ordering the agency to provide services for children placed for adoption, the court may also order the agency to conduct other court ordered services.

Other court ordered services involve custody investigations or supervised visitation. "Custody investigation" means a court ordered method of gathering information regarding a child whose custody, visitation, or support is in controversy or requires determination. Custody investigations are usually requested in divorce situations.

"Supervised visitation" is another court ordered service. Supervised visitation means supervision of the visits by a court appointed representative. There are no standardized procedures or formats for conducting supervised visitation. The local court will advise the agency on any preferred procedures or formats.

"Mediation" is another court ordered service. Mediation is used in custody disputes. It is a means for the parties to work out arrangements regarding custody and visitation between themselves in a non-adversarial way. Mediation requires specific training and is not included in this chapter.

ADOPTION SEARCHES

The Adoption Unit, acting on behalf of the Commissioner of Social Services, may request the agency to conduct an adoption search. An "adoption search" means interviews and written or telephone inquiries made by an agency to locate and advise the birth parents or siblings of an adult adoptee's petition for information from a closed adoption record. An adoption search includes a written report to the Adoption Unit of the results of the search. It may also include facilitating reunion of the parties at the court's direction.

FEES FOR COURT ORDERED SERVICES

The petitioners, the respondent, or both may be charged a fee for some court ordered services provided by local departments of social services. Fees for court ordered services are discussed in Section 9 of this manual.

INTER-COUNTRY ADOPTIONS

An inter-country adoption is when the petitions have adopted a child from a foreign country. In most inter-country adoptions, the adoptive parents are encouraged to re-adopt in Virginia.

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1. STEPPARENT ADOPTIONS - A stepparent adoption is when the spouse of the birth or adoptive parent is adopting the child. The regulations governing parental placement adoptions are not applicable in stepparent adoptions because no placement occurs in a stepparent adoption. In a stepparent adoption where consent has been obtained or is not required,

THE INVESTIGATION AND REPORT SHALL BE UNDERTAKEN ONLY IF THE COURT IN ITS DISCRETION DETERMINES THAT THERE SHOULD BE AN INVESTIGATION BEFORE A FINAL ORDER OF ADOPTION IS ENTERED (Section 63.1-219.49). If the court makes such a determination, the agency becomes involved when the adoption petition is filed and the circuit court enters the order of reference.

1.1 RESPONSIBILITIES OF THE AGENCY IN A STEPPARENT ADOPTION

1.1.1 Case Opening

A case is opened when a petition for adoption is received from the Circuit Court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

1.1.1.1 Open the case.

1.1.1.2 Set up a case record

- ▣ the case record should contain the following documents, if applicable:

- ▣ all court orders,
- ▣ all required documentation,
- ▣ Report of Investigation,
- ▣ all correspondence,
- ▣ narrative.

- ▣ if two children are on the same petition, only one case is needed.

1.1.2 Review the Petition and Order of Reference

The petition for adoption is usually accompanied by an order of reference, which is an order from the court directing an agency to make an investigation and report.

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- 1.1.2.1 The petition and order of reference must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) resides and the case has been referred to the proper agency. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL OF RECORD, IF ANY (Section 63.1-219.9).
- 1.1.2.2 If the agency receives an order of reference in either of the following cases, the agency should contact the local social service agency in the locality of the petitioners' residence to request assistance with completion of the investigation.
- ☐ the petitioner(s) is a legal resident of Virginia but is living outside the State; or
 - ☐ the petitioner(s) moves from the state after the petition is filed.
- 1.1.2.3 In some stepparent adoptions, the court has the option of dispensing with the investigation and entering a final order. If an order of reference is entered in these cases, the attorney is to be contacted to make sure he is aware the court may enter a final order without an investigation. If the order of reference is not rescinded, the agency is responsible for making the investigation and report. (See page 1.5 of this section).
- 1.1.2.4 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or it appears to be in the best interest of the child for another agency to make the investigation, the agency is to request that the court enter an amended order referring the investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.
- 1.1.2.5 The order of reference must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The acknowledgment form is in the Forms section.

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1.1.3 Review of the Consents

The agency does not have any responsibility for obtaining written parental consent. The agency is responsible for reviewing the consent to determine if:

1.1.3.1 VALID CONSENT HAS BEEN OBTAINED FROM:

- ☐ THE LEGAL AND/OR BIOLOGICAL PARENT WHO HAS NOT JOINED IN THE ADOPTION PETITION. (Section 63.1-219.10C). A man is considered to be the child's legal father if the child was born within 10 months of a divorce; AND
- ☐ THE ADOPTEE WHO IS 14 YEARS OF AGE OR OLDER (Section 63.1-219.10C).

1.1.3.2 Consent has been properly executed.

- ☐ THE PARENT, WHO IS THE SPOUSE OF THE PETITIONER, MUST JOIN IN THE PETITION TO INDICATE CONSENT (Section 63.1-219.9); AND
- ☐ THE OTHER PARENT(S) MUST GIVE WRITTEN CONSENT. THE CONSENT MUST IDENTIFY THE CHILD AND THE PETITIONER(S) BY NAME AND MUST BE SIGNED, DATED, AND NOTARIZED (Section 63.1-219.10).
- ☐ THE CONSENT MUST BE NOTARIZED (Section 63.1-219.10A)

1.1.4 Inquiries Made During the Investigation

The Code (Section 63.1-219.49C) requires the following questions be answered:

1.1.4.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE CHILD

- ☐ A child protective service checks, criminal records checks, and references are not needed.

1.1.4.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE CHILD IS

- ☐ Medical reports are not needed;

1.1.4.3 WHY THE PARENTS, IF LIVING, DESIRE TO BE RELIEVED OF

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THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE OF THE CHILD, AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;

- 1.1.4.4 WHETHER THE PARENTS HAVE ABANDONED THE CHILD OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;
- 1.1.4.5 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE AND IS LIVING IN THE HOME OF THE PETITIONER(S);
- 1.1.4.6 WHETHER THE CHILD IS A SUITABLE CHILD FOR ADOPTION BY THE PETITIONER(S); AND
- 1.1.4.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR IN THEIR BEHALF TO PERSONS OR AGENCIES WHICH HAVE ASSISTED THEM IN OBTAINING THE CHILD.
- 1.1.4.8 THE REPORT MUST INCLUDE THE PHYSICAL AND MENTAL HISTORY OF BIRTH PARENTS, IF IT IS KNOWN.

1.1.5 The Investigation Includes:

1.1.5.1 Interviews with:

- ☐ adoptive parents,
- ☐ child, if of the age to participate,
- ☐ All birth/legal parents to determine their attitude, physical and mental health history, and background information.
 - ☐ If an interview is not possible, contact must be made by mail or telephone, or through another agency.
 - ☐ When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.
 - ☐ The letter must be delivered to the

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addressee only and a return receipt
requested.

- ☐ professional persons concerned with case;

1.1.5.2 home visits to describe for the court the physical environment in which the child will live, and to observe interactions between the parent and child in a familiar environment.

1.1.5.3 information on the adoptive parents' income in order to determine the fee assessed.

1.1.5.4 If unable to complete the investigation

- ☐ The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 90 days.

- ☐ A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

- ☐ If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

- ☐ If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the assistance of an out-of-state agency in completing the investigation.

1.1.6 Prepare the Report of Investigation

THE FORMAT OF THE REPORT MUST BE THAT PRESCRIBED BY THE ADOPTIONS UNIT. The Report of Investigation Format and Checklist in the Forms section outlines information to be included in the report.

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For purposes of confidentiality, the report must not contain identifying information on the legal/birth parent who is not a party to the petition. The report must contain a recommendation as to the action to be taken by the court.

1.1.6.1 Prepare four copies of the report

- ☐ SEND ORIGINAL TO THE COURT WITH CERTIFICATE OF SERVICE SHOWING COPY OF REPORT WAS SENT TO THE ADOPTIONS UNIT (Section 42.1-219.49). The Certificate of Service form is in the Forms section.
- ☐ SEND ONE COPY TO THE ADOPTIONS UNIT WITH COMPLETED COMMISSIONER'S CONFIDENTIAL REPORT (See the Forms section for the CCR).
- ☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.
- ☐ Keep a copy in agency's file until final disposition.

1.1.6.2 If a letter of opposition to the adoption is received from the legal/birth parent, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

1.1.6.3 The agency must submit any additional information requested by the Adoptions Unit.

1.1.6.4 In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by the local department of social services which completed the investigation and court report to provide proof of payment of the fee.

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1.1.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for abeyance. The format for a Supplementary Report is in the Forms section.

1.1.8 What Must Be Done Following Final Disposition

1.1.8.1 Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A FINAL ORDER IS NOT SUBJECT TO ATTACK FOR ANY REASON AFTER SIX MONTHS FROM THE DATE IT IS ENTERED AND IS FINAL FOR ALL PURPOSES (Section 63.1-219.23).

1.1.8.2 Acknowledgment and disposition of case material

- ☒ The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment form is in the Forms section.
- ☒ The agency must purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the Adoptions Unit for preservation (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to Adoption Reports for Preservation in a Non-agency Adoption).

1.1.9 Closing The Case

The case should be closed when the final order of adoption is received.

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2.2 RESPONSIBILITIES OF THE ATTORNEY

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- 2.2.1 files the petition, WHICH MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD (Section 63.1-219.9),
- 2.2.2 obtains required consents,
- 2.2.3 prepares appropriate orders,
- 2.2.4 informs the petitioners of the legal requirements,
- 2.2.5 assists the agency in obtaining necessary verifications, and
- 2.2.6 assists the petitioner(s) in obtaining a new birth certificate for the child.

RESPONSIBILITIES OF THE COMMISSIONER

The Adoptions Unit carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 2.3.1 establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family; and
- 2.3.2 monitoring adoption cases and submitting reports to courts when necessary.

RESPONSIBILITIES OF THE CIRCUIT COURT

- 2.4.1 IF THE PETITION IS EXECUTED UNDER OATH, THE COURT MAY, WITHOUT AN INVESTIGATION, ENTER A FINAL ORDER IN ACCORDANCE WITH CODE SECTION 63.1-219.20 WHEN:

- 2.4.1.1 A NATURAL PARENT, WHOSE SPOUSE HAS DIED, MARRIES AGAIN AND THE SURVIVING PARENT AND NEW SPOUSE PETITION FOR ADOPTION (Section 63.1-219.48A); OR
- 2.4.1.2 A LEGITIMATE CHILD OF A DIVORCED PARENT IS BEING ADOPTED BY A STEPPARENT AND THE OTHER NATURAL PARENT HAS CONSENTED TO THE ADOPTION (Section 63.1-219.48B); OR

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2.4.1.3 A MOTHER OF AN ILLEGITIMATE INFANT MARRIES, AND HER HUSBAND DESIRES TO ADOPT, PROVIDED (Section 63.1-219.48C):

- ☐ THE BIRTH FATHER CONSENTS; OR
- ☐ THE MOTHER EXECUTES AN AFFIDAVIT THAT THE IDENTITY OF THE FATHER IS NOT KNOWN OR NOT REASONABLY ASCERTAINABLE; OR
- ☐ THE ALLEGED FATHER DENIES PATERNITY; OR
- ☐ THE CHILD IS 14 YEARS OF AGE AND HAS LIVED IN THE PETITIONERS' HOME FOR AT LEAST FIVE YEARS; OR
- ☐ THE ALLEGED FATHER IS DECEASED.

2.4.1.4 A SINGLE PERSON WHO ADOPTED A CHILD MARRIES AND FILES A PETITION WITH HIS/HER SPOUSE (Section 63.1-219.48D)

2.4.2 THE INVESTIGATION AND REPORT SHALL BE UNDERTAKEN ONLY IF THE COURT IN ITS DISCRETION DETERMINES THAT THERE SHOULD BE AN INVESTIGATION BEFORE A FINAL ORDER OF ADOPTION IS ENTERED (Section 63.1-219.49). IF THE COURT MAKES SUCH A DETERMINATION, IT SHALL REFER THE MATTER TO THE LOCAL DIRECTOR OF SOCIAL SERVICES.

2.4.2.1 The clerk of the circuit court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the Director of the Department of Social Services and to the Adoption Unit. THE PETITION MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD, IF ANY (Section 63.1-219.9)

2.4.2.2 THE COURT DOES NOT TAKE ACTION ON THE AGENCY'S REPORT DURING THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER (Section 63.1-219.49)

THE COURT MAY TAKE ANY ACTION IT FINDS APPROPRIATE IF THE REPORT IS NOT SUBMITTED IN THE SPECIFIED TIME (Section 63.1-219.49B). The court may:

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- ▶ enter a final order,
- ▶ deny petition,
- ▶ dismiss petition,
- ▶ continue proceeding,
- ▶ schedule a hearing, or
- ▶ enter an interlocutory order (in stepparent adoptions, the interlocutory order is almost always waived by the court in accordance with Code Section 63.1-219.17.1).

2.4.2.3

THE COURT MAY DISPENSE WITH PARENTAL CONSENT IF THE COURT FINDS THAT CONSENT IS WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11A) PROVIDED THAT:

- ▶ TWENTY-ONE DAYS HAVE ELAPSED SINCE PERSONAL NOTICE OF THE PETITION WAS SERVED ON THE PERSON(S) WHOSE CONSENT IS REQUIRED (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received); OR
- ▶ IF PERSONAL SERVICE IS UNOBTAINABLE, 10 DAYS HAVE ELAPSED AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PERSON(S) WHOSE CONSENT IS REQUIRED; OR
- ▶ THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF THE PERSON WHOSE CONSENT IS REQUIRED IS UNOBTAINABLE. AN AFFIDAVIT OF THE MOTHER THAT THE IDENTITY OF THE FATHER IS NOT REASONABLY ASCERTAINABLE IS SUFFICIENT EVIDENCE PROVIDED THAT THERE IS NO EVIDENCE BEFORE THE COURT TO REFUTE THE AFFIDAVIT.

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2.4.2.4 THE COURT DOES NOT REQUIRE CONSENT WHEN:

- ▶ THE BIRTH FATHER IS CONVICTED OF
 - ▣ RAPE;
 - ▣ CARNAL KNOWLEDGE OF A CHILD BETWEEN THE AGES OF THIRTEEN AND FIFTEEN; OR
 - ▣ ADULTERY OR FORNICATION WITH HIS DAUGHTER OR GRANDDAUGHTER, OR WITH HER SON OR GRANDSON, OR HER FATHER OR HIS MOTHER;
- AND THE CHILD WAS CONCEIVED FROM THIS ACTION (Section 18.2-366B).
- ▶ A PARENT IS DECEASED (Section 63.1-219.11B), OR
- ▶ THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF ONE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF THE COURT (Section 63.1-219.10C.1), OR
- ▶ WHEN, FOR A CHILD BORN OUT OF WEDLOCK (Section 63.1-219.19.10C.2):
 - ▣ THE FATHER'S IDENTITY IS UNKNOWN; OR
 - ▣ THE FATHER IS GIVEN NOTICE OF THE ADOPTION PROCEEDINGS BY CERTIFIED OR REGISTERED MAIL AT HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT WITHIN 21 DAYS OF THE DATE THE NOTICE WAS MAILED (there should be a returned postal receipt signed by the father to indicate that the notice was received).

2.4.2.5 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.

2.4.2.6 The clerk of the court sends to the agency and to the Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the

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clerk forwards all reports submitted with the final order to the Adoption Unit for preservation.

- 2.4.2.7 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (CODE SECTION 63.1-219.55).
- 2.4.2.8 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.
- 2.4.2.9 AFTER THE ENTRY OF A FINAL ORDER, THE CLERK OF COURT SENDS TO THE STATE DEPARTMENT OF HEALTH, BUREAU OF VITAL RECORDS AND HEALTH STATISTICS A COMPLETED REPORT OF ADOPTION, VS-21, AND A COMPLETED APPLICATION FOR A CERTIFIED COPY OF A BIRTH RECORD, VS-6, WITH A CHECK FOR THE REQUIRED FEE (Code Section 32.1-262).

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2. PARENTAL PLACEMENT ADOPTIONS

Parental placements for the purpose of adoption are governed by the provisions in CODE SECTION 63.1-219.37. In a parental placement, the child's parent or legal guardian places the child with a family of his/her choice for the purpose of adoption. IN A PARENTAL PLACEMENT, THE AGENCY COMPLETES A HOME STUDY REPORT AND A PETITION IS FILED IN THE JUVENILE AND DOMESTIC RELATIONS COURT FOR EXECUTION OF CONSENT AND AWARDING OF CUSTODY TO THE PROSPECTIVE ADOPTIVE PARENTS. THE JUVENILE AND DOMESTIC RELATIONS COURT REVIEWS THE HOME STUDY REPORT AND COLLATERAL MATERIAL TO DETERMINE WHETHER THE REQUIREMENTS OF LAW HAVE BEEN MET, ACCEPTS PARENTAL CONSENT, AND TRANSFERS CUSTODY TO THE ADOPTIVE PARENTS. AN ADOPTION PETITION MAY THEN BE FILED IN CIRCUIT COURT.

The overall steps in a parental placement adoption are as follows: (i) the agency receives a request for a home study; (ii) a home study is completed; (iii) a report of the home study is submitted to the juvenile and domestic relations district court; (iv) adoptive parents file a petition for execution of consent in juvenile and domestic relations district court; (v) court accepts consent and awards custody to the prospective adoptive parents; (vi) a petition for adoption is filed in the Circuit Court; (vii) the circuit court enters an Interlocutory Order of adoption if everything has been done in compliance with law; and (viii) after a six month supervisory period, the circuit court enters a final order of adoption.

2.1 RESPONSIBILITIES OF THE AGENCY IN A PARENTAL PLACEMENT ADOPTION BEFORE THE ADOPTION PETITION IS FILED IN CIRCUIT COURT.

IN A PARENTAL PLACEMENT, IN ORDER FOR THE JUVENILE AND DOMESTIC RELATIONS COURT TO MAKE THE REQUIRED DETERMINATIONS BEFORE ACCEPTING CONSENT, THE AGENCY SHALL:

2.1.1 OPEN THE CASE

In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the Juvenile and Domestic Relations Court. The request will come from either the birth parent or adoptive parent. In some cases, the agency will receive an Order For a Home Study directly from the court.

When the request for services comes from either the birth parent or the prospective adoptive parents, a service application is completed. In cases where the court order initiates the request for services, the court order serves as the service application.

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2.1.1.1 SET UP CASE RECORDS

A parental placement case record should contain the following documents:

- Service application (or court order);
- all court orders;
- home study, including all certifications;
- Home Study Report;
- Report of Investigation, if applicable;
- Report of Visitation;
- all correspondence;
- narrative

2.1.2 CONDUCT A HOME STUDY OF THE PROSPECTIVE ADOPTIVE HOME.

THE MANNER IN WHICH A FAMILY RECEIVES A CHILD FOR ADOPTION SHALL HAVE NO BEARING ON HOW THE FAMILY IS TO BE ASSESSED FOR PURPOSES OF ADOPTIVE PLACEMENT. THE CRITERIA OF CAPACITY FOR PARENTHOOD ARE THE SAME WHETHER THE CHILD WAS PLACED BY AN AGENCY, BY THE BIRTH PARENTS, OR BY A LEGAL GUARDIAN.

THE DIFFERENCE BETWEEN COMPLETING A HOME STUDY FOR A CHILD PLACED BY AN AGENCY AND FOR A CHILD PLACED BY BIRTH PARENTS IS IN THE ROLE OF THE AGENCY, NOT IN THE ASSESSMENT OF THE ADOPTIVE FAMILY.

IN AN AGENCY PLACEMENT, THE AGENCY APPROVES OR DENIES ADOPTIVE APPLICANTS BASED ON AGENCY STANDARDS. IN A PARENTAL PLACEMENT, THE AGENCY MAKES A RECOMMENDATION TO THE COURT REGARDING THE SUITABILITY OF THE FAMILY TO ADOPT. THE RECOMMENDATION IS BASED ON AN ASSESSMENT OF WHETHER THE PLACEMENT IS CONTRARY TO THE BEST INTEREST OF THE CHILD. THE ASSESSMENT IS BASED ON INFORMATION GATHERED DURING THE HOME STUDY PROCESS. (See the Forms section for the format for the home study report).

The adoptive home study is a process that involves the adoptive applicants in determining with the agency whether they can meet the needs of an adopted child.

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The home study should be carried out so that it brings about increased understanding of the adoption process and begins to prepare the applicants for adoption.

In a parental placement, it is important for the home study to be completed as early in the process as possible. Early completion of the home study provides safeguards for the child and facilitates the adoption process. In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the Juvenile and Domestic Relations Court. The request will come from either the birth parent or adoptive parent. In some cases, the agency will receive an Order For a Home Study directly from the court.

In a parental placement, the agency is not responsible for approving or denying the family. State law gives birth parents the right to place their child with a family of their choice. The agency's responsibility is to assess the family and report its findings to the Juvenile Court. The birth family and the Juvenile Court will make the determination as to whether the family is a suitable family for the child.

After completing the home study, the agency should inform the birth parents of their recommendation to the court. When the agency's recommendation is that the placement appears to be contrary to the welfare of the child, the birth parents may want their attorney present for the court hearing.

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. See Section 5 - The Adoptive Home Study for adoptive home standards and assessment criteria.

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2.1.3 REQUIREMENTS FOR HOME STUDY.

In addition to the information gathered during the home study assessment, in the course of the home study the agency must include the following:

2.1.3.1 THE AGENCY WORKER MUST MEET AT LEAST ONCE WITH THE BIRTH PARENT(S) AND PROSPECTIVE ADOPTIVE PARENTS SIMULTANEOUSLY (SECTION 63.1-219.38).

- ☐ THE PURPOSE OF THIS SIMULTANEOUS MEETING IS TO ENSURE THAT THE BIRTH PARENT(S) AND ADOPTIVE PARENTS HAVE EXCHANGED IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL AND PSYCHOLOGICAL INFORMATION AND ANY OTHER INFORMATION NECESSARY TO PROMOTE THE WELFARE OF THE CHILD (SECTION 63.1-219.39.3).
- ☐ See the Forms section for a suggested format for the sharing of identifying information.

2.1.3.2 THE BIRTH PARENT(S) MUST BE INFORMED OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES (Section 63.1-219.39.1).

IT MUST BE DETERMINED THAT THE BIRTH PARENTS' CONSENT IS INFORMED AND UNCOERCED (Section 63.1-219.39.1).

- ☐ Anyone may provide the required information to birth parents including doctors, attorneys, ministers, and friends.
- ☐ The agency's responsibility is to determine whether this information has been provided, and if not, to provide it.
- ☐ When birth parents indicate that they desire additional counseling to help them work through feelings and issues related to placing the child for adoption, the role of the agency is to

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assist the birth parent(s) in obtaining this counseling. The agency may provide the counseling directly or refer the birth parent(s) to another community agency.

- 2.1.3.3 THE PROSPECTIVE ADOPTIVE FAMILY MUST BE INFORMED OF ALTERNATIVES TO ADOPTION; ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENTS; THE PROCEDURES FOR TERMINATING PARENTAL RIGHTS; THE OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN (Section 63.1-219.39.2).

IT MUST BE DETERMINED THAT THE PROSPECTIVE ADOPTIVE PARENTS' DECISION IS INFORMED AND UNCOERCED; AND THAT THEY INTEND TO FILE AN ADOPTION PETITION AND PROCEED TOWARD A FINAL ORDER OF ADOPTION (Section 63.1-219.39.2).

- ▣ The family can be informed of this information by the attorney or the agency. The agency must determine whether the family has received this information and, if not, provide it during the course of the home study.

- ▣ The agency must include in the Report of Home Study that this determination has been made. (See the Forms section for a Certification Form that can be used for this purpose).

- 2.1.2.4 THE AGENCY MUST DETERMINE THAT THERE HAS BEEN NO EXCHANGE OF PROPERTY, ADVERTISEMENT, OR SOLICITATION EXCEPT THAT ALLOWED IN SECTION 63.1-219.25 (Section 63.1-219.39.5). Fees that are allowable include:

- ▣ REASONABLE AND CUSTOMARY SERVICES PROVIDED BY A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY AND FEES, based on prevailing community rates, PAID FOR SUCH SERVICES;

- ▣ PAYMENT OR REIMBURSEMENT FOR MEDICAL EXPENSES AND INSURANCE PREMIUMS WHICH ARE DIRECTLY RELATED TO THE BIRTH MOTHER'S PREGNANCY AND HOSPITALIZATION FOR THE BIRTH OF THE CHILD WHO IS THE SUBJECT OF THE ADOPTION PROCEEDINGS, FOR

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MENTAL HEALTH COUNSELING RECEIVED BY THE BIRTH MOTHER OR BIRTH FATHER RELATED TO THE ADOPTION, AND FOR EXPENSES INCURRED FOR MEDICAL CARE FOR THE CHILD;

- ▶ PAYMENT OR REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES FOR FOOD, CLOTHING, AND SHELTER WHEN, UPON THE WRITTEN ADVISE OF HER PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF DUE TO MEDICAL REASONS OR COMPLICATIONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD;
- ▶ PAYMENT OR REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED INCIDENT TO ANY COURT APPEARANCE INCLUDING, BUT NOT LIMITED TO, TRANSPORTATION, FOOD, AND LODGING;
- ▶ USUAL AND CUSTOMARY FEES, based on prevailing community rates, FOR LEGAL SERVICES IN ADOPTION PROCEEDINGS; AND
- ▶ PAYMENT OR REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY ADOPTIVE PARENTS FOR TRANSPORTATION IN CONNECTION WITH ANY OF THE SERVICES SPECIFIED IN Chapter 10.2, Article 3 OR INTER-COUNTRY PLACEMENTS AND AS NECESSARY FOR COMPLIANCE WITH STATE AND FEDERAL LAW IN SUCH PLACEMENTS.

2.1.2.5

THE AGENCY MUST DETERMINE THAT ALL PARTIES UNDERSTAND THAT NO BINDING CONTRACT EXISTS REGARDING PLACEMENT OR ADOPTION OF THE CHILD (Section 63.1-219.39.4).

- ▶ Birth parents may change their minds about adoption, even after executing consent. Consent does not terminate parental rights and may be revoked under certain conditions until entry of the final order of adoption.
- ▶ The adoptive parents may also decide not to pursue the adoption. The agency's responsibility is to ensure that both parties

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understand that the only guarantee of adoption in a parental placement is the entry of the final order of adoption.

2.1.4 PROVIDE THE JUVENILE COURT WITH A REPORT OF THE HOME STUDY.

The report to court is a separate document from the home study; however, information in the home study should be included in the court report. TWO COPIES OF THE court report MUST BE SENT WITH THE ORIGINAL FOR THE COURT, AT ITS DISCRETION, TO PROVIDE TO THE BIRTH AND ADOPTIVE PARENTS. The agency worker may give prospective adoptive parent(s) a copy of the court report.

2.1.4.1 SECTION 63.1-219.45C REQUIRES THE AGENCY TO FURNISH THE ATTORNEY A COPY OF THE REPORT MADE TO THE COURT.

2.1.4.2 SECTION 63.1-219.46 REQUIRES THE ATTORNEY TO RETURN THE REPORT TO THE CLERK OF COURT WITHOUT IT HAVING BEEN DUPLICATED. The agency should be sure the attorney is aware of these provisions.

2.1.5 FORMAT FOR THE REPORT OF HOME STUDY IN THE FORMAT PRESCRIBED BY THE ADOPTIONS UNIT.

See the Forms section for the format for the Report of Home Study. The report is to include the following:

2.1.5.1 INFORMATION REGARDING WHETHER THE PROSPECTIVE ADOPTIVE PARENTS ARE FINANCIALLY ABLE, MORALLY SUITABLE, AND IN SATISFACTORY PHYSICAL AND MENTAL HEALTH TO ENABLE THEM TO CARE FOR THE CHILD;

2.1.5.2 THE PHYSICAL AND MENTAL CONDITION OF THE CHILD;

2.1.5.3 INFORMATION ABOUT BOTH BIRTH PARENTS, INCLUDING:

☐ NAMES AND ADDRESSES;

☐ WHY THE PARENTS DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CHILD AND WHAT THEIR

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ATTITUDE IS TOWARD THE PROPOSED ADOPTION;

- ☐ PHYSICAL DESCRIPTION, AGES, RACES, MARITAL STATUS, EDUCATION, EMPLOYMENT, AND, IF KNOWN, PHYSICAL AND MENTAL HEALTH.

2.1.5.4 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE, OR WILL BE LIVING, IN THE HOME OF THE PROSPECTIVE ADOPTIVE FAMILY, AND IF APPLICABLE, A STATEMENT AS TO WHETHER THE REQUIREMENTS OF LAW RELATED TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN HAVE BEEN MET;

2.1.5.5 ALL FINANCIAL AGREEMENTS OR EXCHANGE OF PROPERTY AMONG THE PARTIES, INCLUDING FEES PAID FOR SERVICES RELATED TO THE PLACEMENT AND ADOPTION OF THE CHILD, MUST BE REPORTED TO THE COURT.

- ☐ The agency includes this information in the Report of Home Study that is submitted to the Juvenile court.

- ☐ The agency is also responsible for reporting suspected violations to the Commissioner.
(See Section 2.1.8)

2.1.5.6 A STATEMENT AS TO WHETHER THE REQUIREMENTS OF LAW RELATED TO EXECUTION OF CONSENT HAVE BEEN MET. These requirements include:

- ☐ THE CHILD MUST BE AT LEAST 10 DAYS OLD BEFORE CONSENT CAN BE EXECUTED.

- ☐ When there is an identified child, the agency must verify the child's birth (if a birth certificate is not available due to the child having been recently born, verification may be made through a hospital certificate. The agency should make an attempt to get a certified copy of the birth certificate with the birth registration number as soon as possible.

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- ☐ The birth registration number should be listed on the Report of Visitation and the Commissioner's Confidential Report form.
- ☐ The agency must include birth information in the Report of Home Study.
- ☐ THE BIRTH PARENT(S) MUST BE AWARE OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES, their opportunity to be represented by legal counsel, AND CONSENT OF THE BIRTH PARENTS MUST BE INFORMED AND UNCOERCED.
- ☐ This information is reported on the Certification Form (See Section 10-Forms).
- ☐ THE ADOPTIVE FAMILY MUST HAVE BEEN PROVIDED COUNSELING WITH REGARD TO ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENT AND THE PROCEDURES FOR TERMINATING SUCH RIGHTS, AND OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN, AND THEIR DECISION TO ADOPT MUST BE INFORMED AND UNCOERCED
- ☐ This information is reported on the Certification Form (See the Forms section).
- ☐ THE BIRTH PARENT(S) AND ADOPTIVE PARENTS MUST EXCHANGE IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL, AND PSYCHOLOGICAL INFORMATION.
- ☐ THE AGENCY SOCIAL WORKER MUST REPORT THAT THE WORKER HAS MET AT LEAST ONCE WITH THE BIRTH PARENT(S) AND PROSPECTIVE ADOPTIVE PARENTS SIMULTANEOUSLY. The Certification form is used to report this to the court (See the Forms section).

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- 2.1.6 THE ORIGINAL AND TWO COPIES OF THE REPORT OF HOME STUDY ARE PROVIDED TO THE COURT AND THE COURT, AT ITS DISCRETION, PROVIDES THE BIRTH AND ADOPTIVE PARENTS WITH COPIES OF THE HOME STUDY REPORT.

☒ The agency submits the Certification Form (See the Forms section) to the court with the Report of Home Study.

- 2.1.7 UPON ENTRY OF THE FINAL ORDER OF ADOPTION, A COPY OF THE REPORT OF HOME STUDY AND ALL OTHER INFORMATION IN THE ADOPTION RECORD SHALL BE SENT TO THE ADOPTIONS UNIT AT THE VIRGINIA DEPARTMENT OF SOCIAL SERVICES FOR PRESERVATION AND RELEASE IN ACCORDANCE WITH THE PROVISIONS OF CODE SECTION 63.1-219.53).

- 2.1.8 IF THE AGENCY SUSPECTS THERE HAS BEEN AN EXCHANGE OF PROPERTY, MONEY, SERVICES, OR ANY OTHER THING OF VALUE IN VIOLATION OF LAW IN THE PLACEMENT OR ADOPTION OF THE CHILD, THE AGENCY SHALL REPORT THE FINDINGS TO THE COMMISSIONER FOR INVESTIGATION (if the agency has questions as to whether a violation of Code Section 63.1-219.25 has occurred, it is recommended that the agency ask the prospective adoptive family to obtain an itemized account of services rendered for the fees charged). THE FOLLOWING EXCEPTIONS APPLY:

2.1.8.1 REASONABLE AND CUSTOMARY SERVICES PROVIDED BY A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY AND FEES, BASED ON PREVAILING COMMUNITY RATES, PAID FOR SUCH SERVICES;

2.1.8.2 PAYMENT OR REIMBURSEMENT FOR MEDICAL EXPENSES AND INSURANCE PREMIUMS WHICH ARE DIRECTLY RELATED TO THE BIRTH MOTHER'S PREGNANCY AND HOSPITALIZATION FOR THE BIRTH OF THE CHILD WHO IS THE SUBJECT OF THE ADOPTION PROCEEDINGS, FOR MENTAL HEALTH COUNSELING RECEIVED BY THE BIRTH MOTHER OR BIRTH FATHER RELATED TO THE ADOPTION, AND FOR EXPENSES INCURRED FOR MEDICAL CARE FOR THE CHILD;

2.1.8.3 PAYMENT OR REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES FOR FOOD, CLOTHING, AND SHELTER WHEN, UPON THE WRITTEN ADVISE OF HER PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF DUE TO MEDICAL REASONS OR COMPLICATIONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD.

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2.1.8.4 PAYMENT OR REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED INCIDENT TO ANY COURT APPEARANCE PURSUANT TO SECTION 63.1-220.3 INCLUDING, BUT NOT LIMITED TO, TRANSPORTATION FOOD AND LODGING.

2.1.8.5 USUAL AND CUSTOMARY FEES, BASED ON PREVAILING COMMUNITY RATES, FOR LEGAL SERVICES IN ADOPTION PROCEEDINGS; AND

2.1.8.6 PAYMENT OR REIMBURSEMENT OF REASONABLE EXPENSES INCURRED FOR TRANSPORTATION IN CONNECTION WITH ANY OF THE SERVICES SPECIFIED IN SECTION 63.1-220.3 OR INTER-COUNTRY PLACEMENTS AND AS NECESSARY FOR COMPLIANCE WITH STATE AND FEDERAL LAW IN SUCH PLACEMENTS.

2.1.9 IF THE AGENCY BECOMES AWARE THAT ANY PERSON HAS KNOWINGLY AND INTENTIONALLY PROVIDED FALSE INFORMATION IN WRITING AND UNDER OATH, WHICH IS MATERIAL TO AN ADOPTIVE PLACEMENT, THE AGENCY SHALL REPORT THIS TO THE COMMISSIONER (Section 63.1-219.24).

NOTE: The above responsibilities all take place at the juvenile court level. Once the adoption petition is filed in the Circuit Court, the agency has additional responsibilities (See pages 2.24-2.34).

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2.2 RESPONSIBILITIES OF THE ATTORNEY IN PARENTAL PLACEMENT ADOPTION IN JUVENILE COURT

2.2.1 FILE PETITION FOR CONSENT HEARING (Section 16.1-241.U).

2.2.2 OBTAIN CONSENT FROM (Section 63.1-219.10):

2.2.2.1 THE MOTHER;

2.2.2.2 THE LEGAL FATHER;

☐ THE MOTHER'S HUSBAND IS PRESUMED TO BE THE CHILD'S LEGAL FATHER. EVEN IF HE IS NOT THE CHILD'S BIRTH FATHER, HIS PARENTAL RIGHTS MUST BE ADDRESSED (Section 63.1-219.40.1d).

☐ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.

☐ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST 300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED (Section 63.1-219.40.1d).

2.2.2.3 THE BIRTH FATHER;

☐ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT (Section 63.1-219.40.1b).

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- ▶ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.(Section 63.1-219.40.1b).
- ▶ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.1b).
- 2.2.2.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT(Section 63.1-219.10C4).
- 2.2.2.5 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED (Section 63.1-219.40.3).
- 2.2.2.6 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION WITHOUT THE FILING OF ANY CONSENT (Section 63.1-219.40.5).
- 2.2.2.6 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT IS NOT REQUIRED:

 - ▶ IF THE PARENT IS DECEASED;
(Section 63.1-219.10C.1);
 - ▶ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF A COURT (Section 63.1-219.10C.1);
 - ▶ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF (Section 63.1-219.10C.2);

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- ☐ THE BIRTH MOTHER SWEARS UNDER OATH AND IN WRITING THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE (Section 63.1-219.40.1a);
- ☐ THE IDENTITY OF THE BIRTH FATHER IS ASCERTAINABLE AND HIS WHEREABOUTS ARE KNOWN, HE IS GIVEN NOTICE OF THE PROCEEDINGS BY REGISTERED OR CERTIFIED MAIL TO HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT TO THE PROCEEDING WITH TWENTY-ONE DAYS OF THE MAILING OF THE NOTICE (Section 63.1-219.40.1a); OR
- ☐ THE PUTATIVE BIRTH FATHER NAMED BY THE BIRTH MOTHER DENIES UNDER OATH AND IN WRITING PATERNITY OF THE CHILD (Section 63.1-219.40.2);

2.2.2.7 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

- ☐ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); OR
- ☐ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR
- ☐ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

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2.2.2.8 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7).

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2.3 RESPONSIBILITIES OF THE JUVENILE COURT IN A PARENTAL PLACEMENT BEFORE THE ADOPTION PETITION IS FILED IN CIRCUIT COURT.

2.3.1 ADVANCE THE CONSENT PROCEEDINGS ON THE DOCKET TO BE HEARD WITHIN 10 DAYS OF FILING OF THE PETITION, OR AS SOON THEREAFTER AS PRACTICABLE (Section 63.1-219.37).

2.3.2 CONSENT MUST BE EXECUTED IN:

2.3.2.1 THE JUVENILE AND DOMESTIC RELATIONS COURT IN THE CITY OR COUNTY WHERE THE CHILD TO BE ADOPTED WAS BORN; IN THE CITY OR COUNTY WHERE THE BIRTH PARENTS RESIDE; OR IN THE CITY OR COUNTY WHERE THE PROSPECTIVE ADOPTIVE PARENTS RESIDE (Section 16.1-243.1c); or

2.3.2.2 IF THE BIRTH PARENT DOES NOT RESIDE IN VIRGINIA, BEFORE A COURT HAVING JURISDICTION OVER CHILD CUSTODY MATTERS IN THE JURISDICTION WHERE THE BIRTH PARENT RESIDES WHEN REQUESTED BY A COURT OF VIRGINIA (Section 63.1-219.37).

▣ All requirements of Virginia laws governing parental placement adoptions (Chapter 10.2, Article 3).

▣ The juvenile court in Virginia writes a letter to the court in the locality where the birth parent resides and sets out the requirements that must be met before the out-of-state court can accept parental consent.

2.3.3 CONSENT MUST BE EXECUTED BY THE BIRTH PARENT(S) WHILE BEFORE THE JUVENILE AND DOMESTIC RELATIONS COURT IN PERSON AND IN THE PRESENCE OF THE PROSPECTIVE ADOPTIVE PARENTS (Section 63.1-219.40).

2.3.4 IF THE CHILD WAS PLACED BY THE BIRTH PARENT(S) WITH THE PROSPECTIVE ADOPTIVE PARENTS AND IF BOTH BIRTH PARENTS HAVE FAILED, WITHOUT GOOD CAUSE, TO APPEAR AT A HEARING TO EXECUTE CONSENT, THE COURT MAY GRANT THE PETITION WITHOUT THE CONSENT OF EITHER BIRTH PARENT AND ENTER AN ORDER WAIVING CONSENT AND TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS (Section 63.1-219.40.4).

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2.3.4.1 THE ORDER WILL BECOME EFFECTIVE FIFTEEN DAYS AFTER IT IS ENTERED.

2.3.4.2 PRIOR TO THE ENTRY OF SUCH AN ORDER, THE COURT MAY APPOINT LEGAL COUNSEL FOR THE BIRTH PARENTS AND MUST FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE:

▣ BIRTH PARENTS WERE GIVEN PROPER NOTICE OF THE HEARING TO EXECUTE CONSENT AND OF THE HEARING TO PROCEED WITHOUT THEIR CONSENT,

▣ BIRTH PARENTS FAILED TO SHOW GOOD CAUSE FOR THEIR FAILURE TO APPEAR AT SUCH HEARINGS, AND

▣ THE CONSENT OF THE BIRTH PARENTS IS WITHHELD CONTRARY TO THE BEST INTERESTS OF THE CHILD OR IS UNOBTAINABLE.

2.3.5 IN DETERMINING WHETHER THE VALID CONSENT OF ANY PERSON WHOSE CONSENT IS REQUIRED IS WITHHELD CONTRARY TO THE BEST INTERESTS OF THE CHILD, OR IS UNOBTAINABLE, THE COURT SHALL CONSIDER WHETHER THE FAILURE TO GRANT THE PETITION FOR ADOPTION WOULD BE DETRIMENTAL TO THE CHILD. IN DETERMINING WHETHER THE FAILURE TO GRANT THE PETITION WOULD BE DETRIMENTAL TO THE CHILD, THE COURT MUST CONSIDER ALL RELEVANT FACTORS, INCLUDING:
(Section 63.1-219.13)

2.3.5.1 THE BIRTH PARENT(S) EFFORTS TO OBTAIN OR MAINTAIN LEGAL AND PHYSICAL CUSTODY OF THE CHILD;

2.3.5.2 WHETHER THE BIRTH PARENT(S) EFFORTS TO ASSERT PARENTAL RIGHTS WERE THWARTED BY OTHER PEOPLE;

2.3.5.3 THE BIRTH PARENT(S) ABILITY TO CARE FOR THE CHILD;

2.3.5.4 THE AGE OF THE CHILD;

2.3.5.5 THE QUALITY OF ANY PREVIOUS RELATIONSHIP BETWEEN THE BIRTH PARENT(S) AND THE CHILD AND BETWEEN THE BIRTH PARENT(S) AND ANY OTHER MINOR CHILDREN;

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2.3.5.6 THE DURATION AND SUITABILITY OF THE CHILD'S PRESENT CUSTODIAL ENVIRONMENT; AND

2.3.5.7 THE EFFECT OF A CHANGE OF PHYSICAL CUSTODY ON THE CHILD.

2.3.6 BEFORE ACCEPTING CONSENT IN A PARENTAL PLACEMENT, THE JUVENILE AND DOMESTIC RELATIONS COURT MUST DETERMINE THAT:

2.3.6.1 THE CHILD IS AT LEAST 10 DAYS OLD;
(Section 63.1-219.40)

2.3.6.2 THE BIRTH PARENT(S) ARE AWARE OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES, AND THAT THE BIRTH PARENTS' CONSENT IS INFORMED AND UNCOERCED.
(Section 63.1-219.39A.1)
(This information is provided to the court by the agency on the Certification form in the Forms section);

2.3.6.3 A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY HAS COUNSELED THE PROSPECTIVE ADOPTIVE PARENTS WITH REGARD TO ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENTS, THE PROCEDURES FOR TERMINATING SUCH RIGHTS, AND OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN; THAT THE PROSPECTIVE ADOPTIVE PARENTS' DECISION IS INFORMED AND UNCOERCED; AND THAT THEY INTEND TO FILE AN ADOPTION PETITION AND PROCEED TOWARD A FINAL ORDER OF ADOPTION. (Section 63.1-219.39A.2)
(This information is provided to the court by the agency on the Certification form in the Forms section);

2.3.6.4 THE BIRTH PARENT(S) AND ADOPTIVE PARENTS HAVE EXCHANGED IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL AND PSYCHOLOGICAL INFORMATION AND ANY OTHER INFORMATION NECESSARY TO PROMOTE THE WELFARE OF THE CHILD. (Section 63.1-219.39A.3)
(This information is provided to the court by the

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agency on the Certification form in the Forms section)

2.3.6.5 ANY FINANCIAL AGREEMENT OR EXCHANGE OF PROPERTY AMONG THE PARTIES AND ANY FEES CHARGED OR PAID FOR SERVICES RELATED TO THE PLACEMENT OR ADOPTION OF THE CHILD HAVE BEEN DISCLOSED TO THE COURT AND THAT ALL PARTIES UNDERSTAND THAT NO BINDING CONTRACT REGARDING PLACEMENT OR ADOPTION OF THE CHILD EXISTS;
(Section 63.1-219.39A.4)

2.3.6.6 THERE HAS BEEN NO VIOLATION OF LAW IN CONNECTION WITH THE PLACEMENT (Section 63.1-219.39A.5);

2.3.6.7 A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY HAS CONDUCTED A HOME STUDY OF THE PROSPECTIVE ADOPTIVE HOME IN ACCORDANCE WITH THE GUIDELINES LISTED IN SECTION 10-FORMS AND THAT DURING THE COURSE OF THE HOME STUDY, THE WORKER HAS MET AT LEAST ONCE WITH THE BIRTH PARENT AND PROSPECTIVE ADOPTIVE PARENTS SIMULTANEOUSLY. (Section 63.1-219.39A.6)
(This information is provided to the court by the agency on the Certification form in the Forms section).

2.3.6.8 THE BIRTH PARENTS HAVE BEEN INFORMED OF THEIR OPPORTUNITY TO BE REPRESENTED BY LEGAL COUNSEL.
(Section 63.1-219.39A.7)

2.3.6.9 IF ANY OF THE REQUIREMENTS IN SECTION 2.3.6.1 - 2.3.6.8 HAVE NOT BEEN MET, THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL REFER THE BIRTH PARENT TO A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY FOR INVESTIGATION AND RECOMMENDATION.
(Section 63.1-219.39B)

2.3.7 CONSENT SHALL BE REVOCABLE AS FOLLOWS (Section 63.1-219.41):

2.3.7.1 BY EITHER CONSENTING BIRTH PARENT FOR ANY REASON FOR UP TO FIFTEEN DAYS FROM ITS EXECUTION:
(Section 63.1-219.41.1)

☐ REVOCATION MUST BE IN WRITING, SIGNED BY THE

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REVOKING PARTY OR COUNSEL OF RECORD FOR THE REVOKING PARTY, AND FILED WITH THE CLERK OF THE COURT IN WHICH THE PETITION WAS FILED DURING THE BUSINESS DAY OF THE COURT, WITHIN THE FOLLOWING TIME PERIOD:

☐ IF THE REVOCATION PERIOD EXPIRES ON A SATURDAY, SUNDAY, LEGAL HOLIDAY OR ANY DAY ON WHICH THE CLERK'S OFFICE IS CLOSED, THE REVOCATION PERIOD SHALL BE EXTENDED TO THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, LEGAL HOLIDAY OR OTHER DAY ON WHICH THE CLERK'S OFFICE IS CLOSED.

☐ UPON THE FILING OF A VALID REVOCATION WITHIN THE TIME PERIOD SPECIFIED, THE COURT MUST ORDER THAT ANY CONSENT GIVEN FOR THE PURPOSE OF SUCH PLACEMENT IS VOID AND, IF NECESSARY, DETERMINE CUSTODY OF THE CHILD AS BETWEEN THE BIRTH PARENTS.

2.3.7.2 BY ANY PARTY PRIOR TO THE FINAL ORDER OF ADOPTION (I) UPON PROOF OF FRAUD OR DURESS OR (II) AFTER PLACEMENT OF THE CHILD IN AN ADOPTIVE HOME, UPON WRITTEN MUTUAL CONSENT OF THE BIRTH PARENTS AND PROSPECTIVE ADOPTIVE PARENTS. (Section 63.1-219.41.2)

2.3.8 AFTER ACCEPTING CONSENT, THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL TRANSFER CUSTODY TO THE PROSPECTIVE ADOPTIVE PARENTS, TO BE RESPONSIBLE FOR THE CARE OF THE CHILD UNTIL SUCH TIME AS THE COURT ORDER IS MODIFIED (Section 63.1-219.40)

2.3.8.1 THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL REVIEW SUCH ORDERS OF APPOINTMENT AT LEAST ANNUALLY UNTIL SUCH TIME AS THE FINAL ORDER OF ADOPTION IS ENTERED; (Section 63.1-219.40.8)

2.3.8.2 WHEN A CHILD IS PLACED IN AN ADOPTIVE HOME BY THE BIRTH PARENT AND A COURT OF COMPETENT JURISDICTION HAS NOT ENTERED AN INTERLOCUTORY ORDER OF ADOPTION, THE CHILD SHALL NOT BE REMOVED FROM THE PHYSICAL CUSTODY OF THE ADOPTIVE PARENTS, EXCEPT (Section 63.1-219.5):

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- ▣ WITH THE CONSENT OF THE ADOPTIVE PARENTS,
- ▣ UPON ORDER OF THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT OR THE CIRCUIT COURT OF COMPETENT JURISDICTION,
- ▣ (III) PURSUANT TO §63.1-211, WHICH REMOVAL SHALL BE SUBJECT TO REVIEW BY THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT UPON PETITION OF THE ADOPTIVE PARENTS, OR
- ▣ UPON ORDER OF THE COURT WHICH ACCEPTED CONSENT WHEN CONSENT HAS BEEN REVOKED AS AUTHORIZED BY SECTION 63.1-219.12 OR SECTION 63.1-219.30.

2.3.9 AFTER THE EXPIRATION OF THE APPROPRIATE REVOCATION PERIOD:
(Section 63.1-219.14)

2.3.9.1 WHEN A BIRTH PARENT OR AN ALLEGED BIRTH PARENT ATTEMPTS TO OBTAIN OR REGAIN CUSTODY OF OR ATTEMPTS TO EXERCISE PARENTAL RIGHTS TO A CHILD WHO HAS BEEN PLACED FOR ADOPTION, THERE SHALL BE NO PARENTAL PRESUMPTION IN FAVOR OF ANY PARTY.

2.3.9.2 UPON THE MOTION OF ANY SUCH BIRTH PARENT OR ALLEGED BIRTH PARENT, OR UPON THE MOTION OF ANY PERSON OR AGENCY WITH WHOM THE CHILD HAS BEEN PLACED, THE COURT SHALL DETERMINE:

- ▣ WHETHER THE BIRTH PARENT OR ALLEGED BIRTH PARENTS IS A PERSON WHOSE CONSENT TO THE ADOPTION IS REQUIRED AND;
- ▣ IF SO, WHETHER, IN THE BEST INTEREST OF THE CHILD, THE CONSENT OF THE PERSON WHOSE CONSENT IS REQUIRED IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE.

2.3.10 IF THE JUVENILE AND DOMESTIC RELATIONS COURT SUSPECTS THERE HAS BEEN AN EXCHANGE OF PROPERTY, MONEY, SERVICES, OR ANY OTHER THING

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OF VALUE IN VIOLATION OF LAW IN THE PLACEMENT OR ADOPTION OF THE CHILD, THE COURT SHALL REPORT THE FINDINGS TO THE COMMISSIONER FOR INVESTIGATION (Section 63.1-219.25).

2.3.11 WHEN SERVICES HAVE BEEN PROVIDED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE COURT SHALL ASSESS A FEE, IN ACCORDANCE WITH REGULATIONS AND FEE SCHEDULES ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES. THE COURT SHALL NOT ACCEPT PARENTAL CONSENT UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED.
(Section 63.1-219.55)

2.3.12 IF THE JUVENILE AND DOMESTIC RELATIONS COURT DETERMINES THAT THE PLACEMENT WILL BE CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE COURT SHALL INFORM THE BIRTH PARENTS. IF THE BIRTH PARENTS CHOOSE NOT TO RETAIN CUSTODY OF THE CHILD NOR TO DESIGNATE OTHER PROSPECTIVE ADOPTIVE PARENTS, OR IF THE BIRTH PARENTS' WHEREABOUTS ARE NOT REASONABLY ASCERTAINABLE, THE COURT SHALL DETERMINE CUSTODY OF THE CHILD (Section 63.1-219.42).

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2.4 RESPONSIBILITIES OF THE COMMISSIONER IN A PARENTAL PLACEMENT ADOPTION WHEN REPORTS OF SUSPECTED VIOLATIONS OF LAW IN THE PLACEMENT AND ADOPTION OF THE CHILD ARE RECEIVED (Section 63.1-219.25)

2.4.1 WHEN REPORTS OF SUSPECTED VIOLATIONS OF LAW IN THE PLACEMENT AND ADOPTION OF THE CHILD ARE RECEIVED BY THE COMMISSIONER, THE COMMISSIONER SHALL:

2.4.1.1. INVESTIGATE THE SUSPECTED VIOLATION; AND TAKE APPROPRIATE ACTION WHEN THE INVESTIGATION REVEALS THAT:

- ▶ THERE MAY HAVE BEEN A VIOLATION OF LAW, THE COMMISSIONER SHALL REPORT HIS FINDINGS TO THE APPROPRIATE ATTORNEY FOR THE COMMONWEALTH;
- ▶ THE VIOLATION OCCURRED IN THE COURSE OF THE PRACTICE OF A PROFESSION OR OCCUPATION LICENSED OR REGULATED PURSUANT TO TITLE 54.1, THE COMMISSIONER SHALL ALSO REPORT HIS FINDINGS TO THE APPROPRIATE REGULATORY AUTHORITY FOR INVESTIGATION AND APPROPRIATE DISCIPLINARY ACTION (Section 63.1-219.26);
- ▶ THE VIOLATION INVOLVES ENGAGING IN THE ACTIVITIES OF A CHILD-PLACING AGENCY WITHOUT A LICENSE, THE COMMISSIONER MAY FILE SUIT WITH THE COURT OF RECORD HAVING CHANCERY JURISDICTION. (Section 63.1-196).
- ▶ A PERSON HAS KNOWINGLY AND INTENTIONALLY PROVIDED FALSE INFORMATION IN WRITING AND UNDER OATH, WHICH IS MATERIAL TO AN ADOPTIVE PLACEMENT (Section 63.1-219.24).

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2.5 RESPONSIBILITIES OF THE CIRCUIT COURT IN A PARENTAL PLACEMENT ADOPTION AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT.

2.5.1 THE CLERK OF THE COURT WHERE THE PETITION IS FILED SENDS A COPY OF THE PETITION, THE INTERLOCUTORY ORDER, AND ALL EXHIBITS TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR LICENSED PRIVATE CHILD-PLACING AGENCY, WHICHEVER AGENCY COMPLETED THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38. A COPY IS ALSO SENT TO THE COMMISSIONER (Section 63.1-219.16).

2.5.1.1 THE PETITION MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD, IF ANY (Section 63.1-219.44).

2.5.1.2 IN ANY CASE IN WHICH THE PETITION SEEKS THE ENTRY OF AN ADOPTION ORDER WITHOUT REFERRAL FOR INVESTIGATION, THE PETITION SHALL BE UNDER OATH (Section 63.1-219.44).

2.5.2 THE CIRCUIT COURT SHALL NOT ACCEPT A PETITION IN A PARENTAL PLACEMENT UNLESS:

2.5.2.1 COPIES OF DOCUMENTS EXECUTING CONSENT, TRANSFERRING CUSTODY TO THE PETITIONERS, AND THE HOME STUDY REPORT ARE FILED WITH THE PETITION (Section 63.1-219.44); AND

2.5.2.2 THE CIRCUIT COURT HAS DETERMINED THAT THE FINDINGS REQUIRED BY LAW HAVE BEEN MADE BY THE JUVENILE AND DOMESTIC RELATIONS COURT (See pages 2.19-2.20).

2.5.3 WHEN ALL LEGAL REQUIREMENTS RELATED TO EXECUTING CONSENT PURSUANT TO CODE SECTION 63.1-219.39 HAVE BEEN MET, THE CIRCUIT COURT MAY DISPENSE WITH THE ORDER OF REFERENCE AND ENTER AN INTERLOCUTORY ORDER. THE HOME STUDY REPORT THAT WAS SUBMITTED TO THE JUVENILE AND DOMESTIC RELATIONS COURT AND FILED WITH THE PETITION IN THE CIRCUIT COURT TAKES THE PLACE OF THE INVESTIGATION REQUIRED IN OTHER NON-AGENCY ADOPTIONS (SECTION 63.1-219.45B).

2.5.4 IN THOSE PARENTAL PLACEMENTS WHERE AN ORDER OF REFERENCE OR AN INTERLOCUTORY ORDER IS ENTERED, THE COURT DOES NOT TAKE ACTION ON THE AGENCY'S REPORT DURING THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER (Section 63.1-219.45B and Section 63.1-219.19A).

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THE COURT MAY TAKE ANY ACTION IT FINDS APPROPRIATE IF THE REPORT IS NOT SUBMITTED IN THE SPECIFIED TIME. THE COURT MAY:

2.5.4.1 ENTER A FINAL ORDER,

2.5.4.2 ENTER AN INTERLOCUTORY ORDER,

2.5.4.3 DENY PETITION,

2.5.4.4 DISMISS PETITION,

2.5.4.5 CONTINUE PROCEEDING, OR

2.5.4.6 SCHEDULE A HEARING.

2.5.5 WHEN NO ACTION IS TAKEN BY THE COURT FOR AT LEAST ONE YEAR FROM THE ENTRY OF THE LAST ORDER, THE CLERK OF COURT PLACES THE CASE ON THE DOCKET FOR REVIEW BY THE COURT (Section 63.1-219.21).

2.5.6 THE CLERK OF THE COURT SENDS A COPY OF ANY ORDER ENTERED TO THE AGENCY AND TO THE COMMISSIONER (Section 63.1-219.45A).

2.5.7 UPON ENTRY OF A FINAL ORDER OR ANY OTHER FINAL DISPOSITION, THE CLERK FORWARDS ALL REPORTS SUBMITTED WITH THE FINAL ORDER TO THE COMMISSIONER FOR PRESERVATION (Section 63.1-219.53).

2.5.8 WHEN SERVICES HAVE BEEN PROVIDED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE COURT SHALL ASSESS A FEE, IN ACCORDANCE WITH REGULATIONS AND FEE SCHEDULES ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (Section 63.1-219.55).

2.5.9 THE COURT MAY NOT ENTER A FINAL ORDER OF ADOPTION WITHOUT THE INFORMATION NEEDED TO COMPLETE A REPORT OF ADOPTION (VS-21), UNLESS THE COURT DETERMINES THIS INFORMATION IS UNAVAILABLE OR UNNECESSARY (Section 63.1-219.20). The Report of Adoption (VS-21) provides information that is needed to locate and identify the

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original birth certificate and to establish a new birth certificate.

2.5.10 AFTER THE ENTRY OF A FINAL ORDER, THE CLERK OF COURT SENDS TO THE STATE DEPARTMENT OF HEALTH, BUREAU OF VITAL RECORDS AND HEALTH STATISTICS A COMPLETED REPORT OF ADOPTION, VS-21, AND A COMPLETED APPLICATION FOR A CERTIFIED COPY OF A BIRTH RECORD, VS-6, WITH A CHECK FOR THE REQUIRED FEE (Section 32.1-262).

2.5.11 AFTER THE EXPIRATION OF SIX MONTHS FROM THE DATE OF ENTRY OF ANY FINAL ORDER OF ADOPTION FROM WHICH NO APPEAL HAS BEEN TAKEN TO THE COURT OF APPEALS, THE VALIDITY OF THE FINAL ORDER SHALL NOT BE SUBJECT TO ATTACK IN ANY PROCEEDINGS, COLLATERAL OR DIRECT, FOR ANY REASON, INCLUDING BUT NOT LIMITED TO FRAUD, DURESS, FAILURE TO GIVE ANY REQUIRED NOTICE, FAILURE OF ANY PROCEDURAL REQUIREMENT, OR LACK OF JURISDICTION OVER ANY PERSON AND THE FINAL ORDER SHALL BE FINAL FOR ALL PURPOSES (Section 63.1-219.23).

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2.6 RESPONSIBILITIES OF THE ATTORNEY IN A PARENTAL PLACEMENT ADOPTION AFTER
THE ADOPTION PETITION IS FILED IN CIRCUIT COURT

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

2.6.1 Files the petition WHICH MUST BE SIGNED BY THE PETITIONER AND COUNSEL AND WHICH MUST STATE THAT THE FINDINGS REQUIRED BY CODE SECTION 63.1-219.39 HAVE BEEN MET AND, WHICH MUST BE ACCOMPANIED BY THE FOLLOWING DOCUMENTATION:

2.6.1.1 COPIES OF DOCUMENTS EXECUTING CONSENT,

2.6.1.2 A COPY OF THE COURT ORDER TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS, AND

2.6.1.3 A COPY OF THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38.

2.6.2 Prepares appropriate orders,

2.6.3 Informs the petitioners of the legal requirements

2.6.4 Assists the agency in obtaining necessary verifications, and

2.6.5 Assists the petitioner(s) in obtaining a new birth certificate for the child.

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2.7 RESPONSIBILITIES OF THE COMMISSIONER IN A PARENTAL PLACEMENT ADOPTION AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT

The Adoptions Unit is the office which carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 2.7.1 Establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family (Section 63.1-219.53);
- 2.7.2 Monitoring and evaluating adoption cases and submitting reports to courts (Sections 63.1-219.45, 63.1-219.19); and
- 2.7.3 Arranging through the Interstate Compact on the Placement of Children (ICPC) for investigation and supervisory visits to be made when an out-of-state/country agency is involved (Section 63.1-219.47).

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2.8 RESPONSIBILITIES OF THE AGENCY IN A PARENTAL PLACEMENT AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT

2.8.1 PETITION

2.8.1.1 Review the Petition

- ▣ The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.
- ▣ The petition must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) reside and the case has been referred to the proper agency. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL, IF ANY.
- ▣ THE PETITION MUST BE UNDER OATH WHENEVER THE PETITION SEEKS THE ENTRY OF AN ORDER WITHOUT REFERRAL FOR INVESTIGATION (Section 63.1-219.9).
- ▣ IN A PARENTAL PLACEMENT, THE PETITION MUST STATE THAT THE FINDINGS REQUIRED BY CODE SECTION 63.1-219.39 HAVE BEEN MET, AND MUST BE ACCOMPANIED BY THE FOLLOWING DOCUMENTATION:
 - ▣ COPIES OF DOCUMENTS EXECUTING CONSENT,
 - ▣ A COPY OF THE COURT ORDER TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS, AND
 - ▣ A COPY OF THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38.

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2.8.2 ORDER OF REFERENCE

The order of reference is an order from the court directing an agency to make an investigation and report.

2.8.2.1 THE COURT HAS THE OPTION OF DISPENSING WITH THE ORDER OF REFERENCE IF ALL LEGAL REQUIREMENTS RELATIVE TO EXECUTING CONSENT PURSUANT TO CODE SECTION 63.1-219.39 HAVE BEEN MET. THE HOME STUDY REPORT THAT WAS SUBMITTED TO THE JUVENILE AND DOMESTIC RELATIONS COURT AND FILED WITH THE PETITION IN THE CIRCUIT COURT TAKES THE PLACE OF THE INVESTIGATION REQUIRED BY CODE SECTION 63.1-219.45.

2.8.2.2 When an order of reference is entered by the court, it must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The acknowledgment form is in the Forms section. (See Section 2.8.4 for conducting an investigation).

2.8.3 CONSENTS

The agency does not have the responsibility for obtaining written parental consent. The agency is responsible for reviewing the consents to determine if consent has been obtained from :

2.8.3.1 THE MOTHER;

2.8.3.2 THE LEGAL FATHER;

☒ The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.

☒ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.

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- ▶ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST 300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED.

2.8.3.3 THE BIRTH FATHER;

- ▶ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT.
- ▶ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.
- ▶ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS.

2.8.3.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT;

2.8.3.5 THE LEGAL GUARDIAN, if appropriate.

- ▶ In cases where a guardian is consenting to the adoption, the birth parent(s) do not need to appear in the Juvenile and Domestic Relations Court to execute consent.
- ▶ Also, the simultaneous meeting between the agency social worker and the birth parent(s) and prospective adoptive parents is not required.

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- ☐ The requirements in 4.1.3, however, still need to be met. Even though the guardian is consenting, the court cannot accept consent until it finds that the birth and adoptive parents are making informed and uncoerced decisions.
- 2.8.3.6 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED (Section 63.1-219.40.3).
- 2.8.3.7 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION WITHOUT THE FILING OF ANY CONSENT (63.1-219.40.5).
- 2.8.3.8 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT IS NOT REQUIRED:
- ☐ IF THE PARENT IS DECEASED.
(Section 63.1-219.10C1)
- ☐ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF A COURT (Section 63.1-219.10C1);
- ☐ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF (Section 63.1-219.10C2):
- ☐ THE BIRTH MOTHER SWEARS UNDER OATH AND IN WRITING THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE (Section 63.1-219.40.1a);

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☐ THE IDENTITY OF THE BIRTH FATHER IS ASCERTAINABLE AND HIS WHEREABOUTS ARE KNOWN, HE IS GIVEN NOTICE OF THE PROCEEDINGS BY REGISTERED OR CERTIFIED MAIL TO HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT TO THE PROCEEDING WITH TWENTY-ONE DAYS OF THE MAILING OF THE NOTICE (Section 63.1-219.40.1a); OR

☐ THE PUTATIVE BIRTH FATHER NAMED BY THE BIRTH MOTHER DENIES UNDER OATH AND IN WRITING PATERNITY OF THE CHILD (Section 63.1-219.40.2).

2.8.3.9 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

☐ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); OR

☐ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR

☐ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

2.8.3.10 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7).

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2.8.4 INQUIRIES MADE DURING THE INVESTIGATION

THE COURT MAY DISPENSE WITH THE INVESTIGATION IN A PARENTAL PLACEMENT ADOPTION IF A HOME STUDY REPORT WAS DONE AND THE OTHER REQUIREMENTS OF CHAPTER 10 ARTICLE 6 WERE MET. If the court does not dispense with the investigation, the questions specified in Section 63.1-219.45 must be answered:

- 2.8.4.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE CHILD;
- 2.8.4.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE CHILD IS;
- 2.8.4.3 WHY THE PARENTS, IF LIVING, DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE OF THE CHILD, AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;
- 2.8.4.4 WHETHER THE PARENTS HAVE ABANDONED THE CHILD OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;
- 2.8.4.5 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE, OR WILL BE LIVING, IN THE HOME OF THE PETITIONERS;
- 2.8.4.6 WHETHER THE CHILD IS A SUITABLE CHILD FOR ADOPTION BY THE PETITIONER;
- 2.8.4.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR IN THEIR BEHALF WHICH HAVE ASSISTED THEM IN OBTAINING THE CHILD; AND
- 2.8.4.8 RELEVANT PHYSICAL AND MENTAL HISTORY OF THE BIRTH PARENTS, IF KNOWN.

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2.8.5 THE INVESTIGATION SHOULD INCLUDE:

2.8.5.1 Interviews with:

- ☐ adoptive parents,
- ☐ child, if of the age to participate,
- ☐ all biological/legal parents to determine their attitude, physical and mental health history, and background information,
 - ☐ If an interview is not possible, contact must be made by mail or telephone, or through another agency.
 - ☐ When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.
 - ☐ The letter must be delivered to the addressee only and a return receipt requested.
- ☐ references - contact in person, by mail or telephone, and
- ☐ professional persons concerned with case;

2.8.5.2 home visit(s);

2.8.5.3 medical statements on the child and adoptive parents in non-relative cases; and

2.8.5.4 information on the adoptive parents' income in order to determine the fee assessed.

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2.8.5.5 If unable to complete the investigation

- ▶ The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 90 days.
- ▶ A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.
- ▶ If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.
- ▶ If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests assistance from the new state of residence.
- ▶ An Interstate Compact Form (100A) is completed and forwarded to the ICPC Unit with a cover letter clearly stating the needed services and any collateral materials the out of state agency may need in completing their services.
- ▶ Collateral materials would include social and medical information on the child and birth parents and the home study report on the adoptive family.

2.8.6 PREPARATION OF THE REPORT OF INVESTIGATION REQUIRED BY CODE
SECTION 63.1-2232.8.6.1 Use the format for the home study report shown in the
Forms section with the following changes:

- ▶ Title the report "Report of Investigation";

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- ▣ Direct the report to the appropriate circuit court and the appropriate circuit court judge;
- ▣ Put the Virginia adoption case number on the report and the court chancery number, if applicable;
- ▣ Cite the appropriate code section under which the agency was directed to do the report (Code Section 63.1-219.45B);
- ▣ Insert a section on consent after the section on separation from birth parents;
 - ▣ State who consented to the adoption and the manner in which consent was executed, and,
 - ▣ If applicable, state whose consent was not required or can be waived and why.
 - ▣ The report must include the physical and mental history of birth parents, if it is known.
- ▣ UNDER THE RECOMMENDATION SECTION, SPECIFY WHAT ORDER IS RECOMMENDED (Section 63.1-219.45C) rather than simply stating whether or not the placement is a suitable placement for the child. For example, the agency should recommend entry of an Interlocutory Order.
- ▣ If the provisions of Chapter 10.2, Article 3 were not complied with, indicate this and qualify the recommendation of the interlocutory by stating that such order is recommended "when or if the court is satisfied that consent has been executed in accordance with the law."

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2.8.6.2 Prepare four copies of the report

- ☐ Send original to the court with a Certificate of Service showing that a copy of report was sent to the Adoptions Unit. The Certificate of Service is in the Forms section.
- ☐ Send one copy to the Adoptions Unit with completed Commissioner's Confidential Reports form shown in the Forms section.
- ☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.
- ☐ Keep a copy in agency's file until final disposition.

2.8.6.3 If a letter of opposition to the adoption is received from the biological parent(s), the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

2.8.6.4 The agency must submit any additional information requested by the Adoptions Unit.

2.8.6.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

2.8.7 A SUPPLEMENTARY REPORT

2.8.7.1 Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by

the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a recommendation for abeyance.

- 2.8.7.2 Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. See format for Supplementary Report on in the Forms section.

2.8.8 RECEIPT OF INTERLOCUTORY ORDER

- 2.8.8.1 Review Interlocutory Order

▢ IN A PARENTAL PLACEMENT ADOPTION, IF A HOME STUDY REPORT WAS DONE AND THE OTHER REQUIREMENTS OF CHAPTER 10.2, ARTICLE 3 WERE MET, THE CIRCUIT COURT MAY DISPENSE WITH AN INVESTIGATION AND PROCEED WITH THE ENTRY OF AN INTERLOCUTORY ORDER. THE AGENCY WHICH COMPLETED THE HOME STUDY REPORT REQUIRED BY SECTION 63.1-219.38 IS RESPONSIBLE FOR PROVIDING SUPERVISION AFTER THE ENTRY OF THE INTERLOCUTORY ORDER. The court may also order the entry of an interlocutory order after the investigation allowed by Section 63.1-219.45C is completed.

▢ The agency must review and acknowledge to the court receipt of the interlocutory order. See the Forms section for the acknowledgment form. A copy of the acknowledgment should be sent to the Adoptions Unit.

- 2.8.8.2 Supervisory Visits (Section 63.1-219.19).

▢ THE AGENCY MUST MAKE AT LEAST THREE VISITS TO THE CHILD WITHIN A SIX MONTH PERIOD FOLLOWING THE DATE THE INTERLOCUTORY ORDER IS ENTERED.

▢ THE VISITS MUST BE IN THE PRESENCE OF THE CHILD.

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- ▶ ONE VISIT MUST BE IN THE HOME OF THE PETITIONER(S) WITH THE CHILD AND BOTH PETITIONERS PRESENT UNLESS ONE OF THE PETITIONERS IS NO LONGER RESIDING IN THE HOME.
- ▶ VISITS MUST BE SCHEDULED SO THAT AT LEAST 90 DAYS ELAPSE BETWEEN THE FIRST AND LAST VISIT.
- ▶ If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to court must include the results of the contact.
- ▶ If the petitioner(s) moves from Virginia prior to completion of the three visits, the agency must request assistance from an agency in the new state of residence in completing the visits.
- ▶ AN INTERSTATE COMPACT FORM (100A) IS COMPLETED AND FORWARDED TO THE INTERSTATE COMPACT OFFICE IN THE FOSTER CARE UNIT WITH A COVER LETTER CLEARLY STATING THE NEEDED SERVICES AND ANY COLLATERAL MATERIALS THE OUT OF STATE AGENCY MAY NEED IN COMPLETING THEIR SERVICES.
(Chapter 10.1)
- ▶ Collateral material would include social and medical information on the child and birth parents and the home study report on the adoptive family. A copy of the Interlocutory Order is also included in the materials.

2.8.9 REPORT OF VISITATION

- 2.8.9.1 The Report of Visitation is sent to the court within 15 days of the last visit. The agency sends a Certificate of Service with the Report.

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- 2.8.9.2 The format for the Report of Visitation must be that prescribed by the Adoptions Unit. The Report of Visitation Format is in the Forms section.
- 2.8.9.3 Prepare four copies of the report.
- ☐ Send original to the court with Certificate of Service shown in the Forms section.
 - ☐ Send one copy to the Adoptions Unit.
 - ☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.
 - ☐ Keep one copy in agency's file until final action by the court.
- 2.8.9.4 The agency must submit any additional information requested by the Adoptions Unit.
- 2.8.9.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

2.8.10 WHAT MUST BE DONE FOLLOWING FINAL DISPOSITION

A final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A FINAL ORDER IS NOT SUBJECT TO ATTACK AFTER SIX MONTHS FROM THE DATE IT WAS ENTERED AND IS FINAL FOR ALL PURPOSES (Section 63.1-219.20).

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2.8.10.1 Acknowledgment and disposition of case material

- ☐ The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment is in the Forms section.
- ☐ The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to the Adoptions Unit for Preservation in a Non-agency Adoption").

2.8.10.3 The agency may wish to work out a procedure with their circuit court whereby the circuit court will notify the Juvenile and Domestic Relations Court when the final order of adoption is entered so that the Juvenile and Domestic Relations Court can remove the case from their docket.

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3. PARENTAL PLACEMENTS - RELATIVES OF A SPECIFIED DEGREE: WHEN CHILD HAS RESIDED IN THE HOME OF THE PROSPECTIVE ADOPTIVE PARENTS CONTINUOUSLY FOR AT LEAST THREE YEARS.

WHEN A CHILD HAS BEEN PLACED BY THE BIRTH PARENTS WITH PROSPECTIVE ADOPTIVE PARENTS WHO ARE THE CHILD'S GRANDPARENTS, ADULT BROTHER OR SISTER, ADULT UNCLE OR AUNT OR ADULT GREAT UNCLE OR GREAT AUNT, AND HAS RESIDED WITH THE RELATIVE CONTINUOUSLY FOR AT LEAST THREE YEARS, THE PROVISIONS OF CHAPTER 10.2 ARTICLE 3 DO NOT APPLY AND CONSENT IS EXECUTED IN THE CIRCUIT COURT ACCORDANCE WITH SUBSECTION F OF SECTION 63.1-219.10 (Section 63.1-219.40.6).

- ☐ The proceedings in the juvenile court are omitted.
- ☐ A written, signed, and acknowledged consent is filed with the Circuit Court, with the petition for adoption.

THE PETITION FOR ADOPTION IS FILED IN THE CIRCUIT COURT IN THE CITY OR COUNTY WHERE THE PETITIONERS LIVE, AND CONSENT IS EXECUTED IN ACCORDANCE WITH SUBSECTION F OF SECTION 63.1-219.10, OF THE CODE OF VIRGINIA. Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court.

3.1 RESPONSIBILITIES OF THE AGENCY.

IN THIS TYPE OF PLACEMENT, BOTH THE ORDER OF REFERENCE AND THE INTERLOCUTORY ORDER MAY BE OMITTED BY THE COURT (See §63.1-219.17.4 Code of Virginia) when consent has been obtained or is not required (Refer to pages 3.3 - 3.6).

- ☐ An Order of Reference is an order from the court directing an agency to make an investigation of the home of the petitioners and to report their findings to the court.
- ☐ An Interlocutory Order is an order from the court requiring the agency to provide supervision of the placement and to submit a report to the court at the end of the supervisory period. When both of these orders are omitted by the court, a final order of adoption is entered and the agency has no responsibilities in the matter.

WHEN THE ORDER OF REFERENCE AND THE INTERLOCUTORY ORDER ARE OMITTED AND A FINAL ORDER OF ADOPTION IS ENTERED AT THE TIME THE PETITION AND CONSENT ARE FILED, THE AGENCY HAS NO RESPONSIBILITY IN THIS TYPE OF ADOPTION.

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However, THE CIRCUIT COURT MAY ORDER A THOROUGH INVESTIGATION OF THE MATTER AND REPORT TO BE PERFORMED BY THE APPLICABLE AGENCY AND SUBMITTED TO THE COURT WITHIN NINETY DAYS (Section 63.1219.45). In this case, the agency has the following responsibilities:

3.1.1 OPEN THE CASE

When the Order of Reference is received by the agency, the court order serves as the service application.

3.1.1.1 SET UP CASE RECORDS

A parental placement case record, where the Circuit Court has entered an Order of Reference and/or an Interlocutory Order, should contain the following documents:

Court order (Service application);

all court orders;

Report of Investigation;

Report of Visitation;

all correspondence;

narrative.

3.1.2 Review the Petition

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

3.1.2.1 The petition must be reviewed to be sure THE

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PETITION IS FILED IN THE COURT HAVING
JURISDICTION WHERE THE PETITIONER(S) RESIDE AND
THE CASE HAS BEEN REFERRED TO THE PROPER AGENCY
(Section 63.1-219.9)

3.1.2.2 THE PETITION MUST BE SIGNED BY THE PETITIONER
AND BY COUNSEL, IF ANY (Section 63.1-219.9).

3.1.3 Acknowledge the Order of Reference

The order of reference must be acknowledged to the court. A copy of the agency's acknowledgment is sent to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. See the Forms section for the Acknowledgment form.

3.1.4 Review Consents

The agency does not have the responsibility for obtaining written parental consent. The agency is responsible for reviewing the consent to determine if valid consent has been obtained from:

3.1.4.1 THE MOTHER;

3.1.4.2 THE LEGAL FATHER;

☐ The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.

☐ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.

☐ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST

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300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED (Section 63.1-219.40.1d).

3.1.4.3 THE BIRTH FATHER;

- ☐ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT.
- ☐ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.
- ☐ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS.

3.1.4.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT;

3.1.4.5 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED (Section 63.1-219.40.3).

3.1.4.6 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION WITHOUT THE FILING OF ANY CONSENT (Section 63.1-219.40.5).

3.1.4.7 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT IS NOT REQUIRED:

- ☐ IF THE PARENT IS DECEASED;
(Section 63.1-219.10C.1);

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☐ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF A COURT (Section 63.1-219.10C.1);

☐ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF (Section 63.1-219.10C.2);

☐ THE BIRTH MOTHER SWEARS UNDER OATH AND IN WRITING THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE (Section 63.1-219.40.1a);

☐ THE IDENTITY OF THE BIRTH FATHER IS ASCERTAINABLE AND HIS WHEREABOUTS ARE KNOWN, HE IS GIVEN NOTICE OF THE PROCEEDINGS BY REGISTERED OR CERTIFIED MAIL TO HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT TO THE PROCEEDING WITH TWENTY-ONE DAYS OF THE MAILING OF THE NOTICE (Section 63.1-219.40.1a); OR

☐ THE PUTATIVE BIRTH FATHER NAMED BY THE BIRTH MOTHER DENIES UNDER OATH AND IN WRITING PATERNITY OF THE CHILD (Section 63.1-219.40.2);

3.1.4.8

WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

☐ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); OR

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- ☐ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR
- ☐ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

3.1.4.9 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7).

3.1.5 Complete the Investigation

When the Circuit Court requires an Investigation, the following questions must be addressed (Section 63.1-219.45).

- 3.1.5.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE CHILD;
- 3.1.5.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE CHILD IS;
- 3.1.5.3 WHY THE PARENTS, IF LIVING, DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE OF THE CHILD, AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;
- 3.1.5.4 WHETHER THE PARENTS HAVE ABANDONED THE CHILD OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;
- 3.1.5.5 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE AND IS LIVING IN THE HOME OF THE PETITIONER(S);

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3.1.5.6 WHETHER THE CHILD IS A SUITABLE CHILD FOR ADOPTION BY THE PETITIONER(S); AND

3.1.5.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR IN THEIR BEHALF TO PERSONS OR AGENCIES WHICH HAVE ASSISTED THEM IN OBTAINING THE CHILD.

3.1.6 Ensure that the Investigation required by Code Section 63.1-219.45 includes (See the Forms section for sample Report of Investigation):

3.1.6.1 Interviews with:

- ☐ adoptive parents,
- ☐ child, if of the age to participate,
- ☐ all natural/legal parents to determine their attitude, physical and mental health history, and background information,
- ☐ If an interview is not possible, contact must be made by mail or telephone, or through another agency.
- ☐ When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.
- ☐ The letter must be delivered to the addressee only and a return receipt requested.
- ☐ references - contact in person, by mail or telephone, and
- ☐ professional persons concerned with case;

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- 3.1.6.2 home visits;
- 3.1.6.3 information on the adoptive parents' income in order to determine the fee assessed.
- 3.1.6.4 If unable to complete the investigation the court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 90 days.
- ▣ A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.
 - ▣ If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.
- 3.1.6.6 If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the help of an out-of-state/country agency through the Interstate Compact on the Placement of Children.
- 3.1.6.7 Prepare four copies of the report
- ▣ Send original to the court with Certificate of Service showing copy of report was sent to the Adoption Reports Unit. The Certificate of Service is in the Forms section.
 - ▣ Send one copy to the Adoptions Unit with completed Commissioner's Confidential Reports (See the Forms section for sample CCR);
 - ▣ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

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- ☐ Keep a copy in agency's file until final disposition.

3.1.6.8 If a letter of opposition to the adoption is received from the birth parent(s), the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

- ☐ The agency must submit any additional information requested by the Adoptions Unit

- ☐ In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

3.1.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a recommendation for abeyance.

Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. (See the Forms section for sample Supplementary Report).

3.1.8 Review Interlocutory Order

In this type of case, the court may enter an interlocutory order after the investigation is completed or omit the Interlocutory Order and enter a final order of adoption.

If an Interlocutory Order is entered, the agency must review and

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acknowledge to the court receipt of the interlocutory order. A copy of the acknowledgment should be sent to the Adoptions Unit. (See the Forms section for sample acknowledgment form).

3.1.9 Conduct the Supervisory Visits

If the Circuit Court enters an Interlocutory Order of Adoption, supervisory visits must be made (Section 63.1-219.19).

3.1.9.1 THE AGENCY MUST MAKE AT LEAST THREE VISITS TO THE CHILD WITHIN A SIX MONTH PERIOD FOLLOWING THE DATE THE INTERLOCUTORY ORDER IS ENTERED.

3.1.9.2 VISITS MUST BE SCHEDULED SO THAT NO LESS THAN 90 DAYS ELAPSE BETWEEN THE FIRST AND LAST VISIT.

3.1.9.3 THE VISITS MUST BE IN THE PRESENCE OF THE CHILD. ONE VISIT MUST BE IN THE HOME OF THE PETITIONERS WITH THE CHILD AND BOTH PETITIONERS PRESENT UNLESS THE PETITION WAS FILED BY A SINGLE PARENT OR ONE OF THE PETITIONERS IS NO LONGER RESIDING IN THE HOME.

3.1.9.4 IF ONE OF THE PETITIONERS IS NO LONGER LIVING IN THE HOME, THE AGENCY MUST CONTACT THAT PETITIONER TO DETERMINE IF HE/SHE DESIRES TO REMAIN A PARTY TO THE PROCEEDINGS. THE REPORT TO COURT MUST INCLUDE THE RESULTS OF THE CONTACT.

3.1.9.5 If the petitioners move from Virginia prior to completion of the three visits, the agency must request the assistance in completing the visits from the new state of residence. This is done through the Interstate Compact on the Placement of Children.

3.1.10 Complete the Report of Visitation

3.1.10.1 The Report of Visitation is sent to the court within 15 days of the last visit.

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- 3.1.10.2 THE FORMAT FOR THE REPORT OF VISITATION MUST BE THAT PRESCRIBED BY THE ADOPTIONS UNIT. (See the Forms section for a sample Report of Visitation Format).
- 3.1.10.3 Prepare four copies of the report.
- ☐ SEND ORIGINAL TO THE COURT WITH CERTIFICATE OF SERVICE (See the Forms section for this form).
 - ☐ Send one copy to the Adoptions Unit.
 - ☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.
 - ☐ Keep one copy in agency's file until final action by the court.
- 3.1.10.4 The agency must submit any additional information requested by the Adoptions Unit.
- 3.1.10.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

3.1.11 What Must Be Done Following Final Disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth.

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3.1.11.1 AFTER THE EXPIRATION OF SIX MONTHS FROM THE DATE OF ENTRY OF THE FINAL ORDER FROM WHICH NO APPEAL HAS BEEN TAKEN, THE VALIDITY OF THE FINAL ORDER SHALL NOT BE SUBJECT TO ATTACK FOR ANY REASON INCLUDING BUT NOT LIMITED TO FRAUD, DURESS, FAILURE TO GIVE ANY REQUIRED NOTICE, FAILURE OF ANY PROCEDURAL REQUIREMENT, OR LACK OF JURISDICTION (Section 63.1-219.23).

3.1.11.2 Acknowledgment

- ☒ The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

3.1.12 Closing the Case

The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to the Adoptions Unit for Preservation in a Non-agency Adoption").

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3.2 RESPONSIBILITIES OF THE ATTORNEY.

In this type of adoption, the attorney has primary responsibility for the work that must be done. The attorney:

3.2.1 Files the petition for adoption (Section 63.1-219.9).

3.2.1.1 THE PETITION MUST BE SIGNED BY THE PETITIONER AND THE PETITIONER'S ATTORNEY, IF ANY;

3.2.1.2 IF THE PETITION SEEKS ENTRY OF A FINAL ORDER WITHOUT REFERRAL FOR INVESTIGATION, THE PETITION MUST BE UNDER OATH.

3.2.2 Obtains required consents, which are to be filed with the petition for adoption. When the child has resided in the home of the prospective adoptive parents continuously for at least three years, consent is executed in accordance with section 63.1-219.10, of the code of Virginia.

THE CONSENT MUST BE IN WRITING, SIGNED BY THE BIRTH PARENT, AND ACKNOWLEDGED BY A NOTARY PUBLIC (Section 63.1-219.10A).

3.2.2.1 THE MOTHER;

3.2.2.2 THE LEGAL FATHER;

▣ The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.

▣ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.

▣ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH

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MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST 300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED.

3.2.2.3 THE BIRTH FATHER;

▣ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT.

▣ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.

▣ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS.

3.2.2.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT;

3.2.2.5 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED (Section 63.1-219.40.3).

3.2.2.6 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION WITHOUT THE FILING OF ANY CONSENT (Section 63.1-219.40.5).

3.2.2.7 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT IS NOT REQUIRED:

▣ IF THE PARENT IS DECEASED;
(Section 63.1-219.10C.1);

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- ☐ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF A COURT (Section 63.1-219.10C.1);
- ☐ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF (Section 63.1-219.10C.2);
- ☐ THE BIRTH MOTHER SWEARS UNDER OATH AND IN WRITING THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE (Section 63.1-219.40.1a);
- ☐ THE IDENTITY OF THE BIRTH FATHER IS ASCERTAINABLE AND HIS WHEREABOUTS ARE KNOWN, HE IS GIVEN NOTICE OF THE PROCEEDINGS BY REGISTERED OR CERTIFIED MAIL TO HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT TO THE PROCEEDING WITH TWENTY-ONE DAYS OF THE MAILING OF THE NOTICE (Section 63.1-219.40.1a); OR
- ☐ THE PUTATIVE BIRTH FATHER NAMED BY THE BIRTH MOTHER DENIES UNDER OATH AND IN WRITING PATERNITY OF THE CHILD (Section 63.1-219.40.2);

3.2.2.8 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

- ☐ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); OR

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- ☐ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR
- ☐ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

3.2.2.9 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7).

3.2.3 Prepares the appropriate orders.

In this type of placement, neither an Order of Reference (Section 63.1-219.45) nor an Interlocutory Order (Section 63.1-219.17.4) needs to be entered. In most cases, a final order is filed with the petition and consent.

IF THE COURT DETERMINES THE NEED FOR AN INVESTIGATION PRIOR TO THE FINAL ORDER OF ADOPTION, AN ORDER OF REFERENCE WILL BE ENTERED AND THE COURT WILL REFER THE MATTER TO THE LOCAL DIRECTOR OF SOCIAL SERVICES, OR A LICENSED CHILD PLACING AGENCY FOR INVESTIGATION AND REPORT TO BE COMPLETED WITHIN SUCH TIME AS THE COURT DESIGNATES.

3.2.4 Assists the petitioners in obtaining a new birth certificate for the child.

3.2.4.1 BEFORE ENTERING A FINAL ORDER OF ADOPTION, THE COURT SHALL REQUIRE THE PREPARATION OF A REPORT OF ADOPTION ON A FORM FURNISHED BY THE STATE REGISTRAR OF VITAL RECORDS (VS-21).

3.2.4.2 THE REPORT SHALL:

- ☐ INCLUDE SUCH FACTS AS ARE NECESSARY TO LOCATE AND IDENTIFY THE ORIGINAL CERTIFICATE OF BIRTH;
- ☐ PROVIDE INFORMATION NECESSARY TO ESTABLISH A NEW

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CERTIFICATE OF BIRTH; AND

- ☐ IDENTIFY THE ORDER OF ADOPTION AND BE CERTIFIED BY THE CLERK OF COURT.

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3.3 RESPONSIBILITIES OF THE CIRCUIT COURT WHEN THE CHILD HAS RESIDED IN THE HOME OF THE PROSPECTIVE ADOPTIVE PARENTS CONTINUOUSLY FOR AT LEAST THREE YEARS.

3.3.1 The clerk of the court where the petition is filed sends a copy of the petition, order of reference, or interlocutory order and all exhibits to the local department of social services. A copy is also sent to the Commissioner. THE PETITION MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD, IF ANY (Section 63.1-219.9).

3.3.2 IF, AFTER CONSIDERING EVIDENCE, THE COURT FINDS THAT THE VALID CONSENT OF ANY PERSON WHOSE CONSENT IS REQUIRED IS WITHHELD CONTRARY TO THE BEST INTERESTS OF THE CHILD OR IS UNOBTAINABLE, THE COURT MAY GRANT THE PETITION WITHOUT CONSENT (Section 63.1-219.11):

3.3.2.1 TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION ON THE PARTY WHOSE CONSENT IS REQUIRED;

3.3.2.2 IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY WHOSE CONSENT IS REQUIRED; OR

3.3.2.3 IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

AN AFFIDAVIT OF THE BIRTH MOTHER THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE SHALL BE SUFFICIENT EVIDENCE OF THIS FACT, PROVIDED THERE IS NO OTHER EVIDENCE WHICH WOULD REFUTE SUCH AN AFFIDAVIT (Section 63.1-219.11A)

3.3.3 The court may omit the Order of Reference and the Interlocutory Order and enter a Final Order.

3.3.4 In those parental placements where an order of reference (Section 63.1-219.45B) or an interlocutory order is entered (Section 63.1-219.19A), the court does not take action on the agency's report during the 21 days allowed for review of the agency's report by the Commissioner.

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The court may take any action it finds appropriate if the report is not submitted in the specified time. The court may:

- 3.3.4.1 enter a final order,
- 3.3.4.2 enter an interlocutory order,
- 3.3.4.3 deny petition,

IF THE COURT DENIES THE PETITION AND THE CHILD IS WITHOUT PROPER CARE, THE COURT MAY APPOINT A GUARDIAN FOR THE CHILD OR COMMIT THE CHILD TO A CUSTODIAL AGENCY (Section 63.1-219.16),

- 3.3.4.4 dismiss petition,
- 3.3.4.5 continue proceeding, or
- 3.3.4.6 schedule a hearing.

3.3.5 WHEN NO ACTION IS TAKEN BY THE COURT FOR AT LEAST ONE YEAR FROM THE ENTRY OF THE LAST ORDER, THE CLERK OF COURT PLACES THE CASE ON THE DOCKET FOR REVIEW BY THE COURT (Section 63.1-219.21).

3.3.6 The clerk of the court sends to the agency and to the Commissioner a copy of any order entered. UPON ENTRY OF A FINAL ORDER OR ANY OTHER FINAL DISPOSITION, THE CLERK FORWARDS ALL REPORTS SUBMITTED WITH THE FINAL ORDER TO THE COMMISSIONER FOR PRESERVATION (Section 63.1-219.20).

3.3.7 When services have been provided by a local department of social services, THE COURT SHALL ASSESS A FEE, IN ACCORDANCE WITH REGULATIONS AND FEE SCHEDULES ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (Section 63.1-219.55).

3.3.8 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21),

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unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

- 3.3.9 After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a completed Report of Adoption (VS-21), and a completed Application for a Certified Copy of a Birth Record (VS-6), with a check from the petitioners for the required fee.

3.4 RESPONSIBILITIES OF THE COMMISSIONER

The Adoptions Unit is the office which carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 3.4.1 ESTABLISHING A PERMANENT RECORD OF ALL ADOPTIONS PETITIONED AND PROVIDING POST ADOPTION SERVICES TO ADULT ADOPTEEES AND ADOPTIVE PARENTS SEEKING BACKGROUND INFORMATION ON THE BIOLOGICAL FAMILY (Section 63.1-219.53);
- 3.4.2 MONITORING AND EVALUATING ADOPTION CASES AND SUBMITTING REPORTS TO COURTS (Sections 63.1-219.45B and 63.1-219.19); and
- 3.4.3 ARRANGING, THROUGH THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, FOR INVESTIGATION AND SUPERVISORY VISITS TO BE MADE WHEN THE PETITIONERS MOVE PRIOR TO COMPLETING THE ADOPTION (Chapter 10.1, of the Code of Virginia).

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4. PARENTAL PLACEMENTS - RELATIVES OF A SPECIFIED DEGREE: WHEN THE CHILD HAS RESIDED IN THE HOME OF THE PROSPECTIVE ADOPTIVE PARENTS FOR LESS THAN THREE YEARS.

IN THIS TYPE OF PLACEMENT, THE AGENCY COMPLETES A HOME STUDY REPORT AND A PETITION IS FILED IN THE JUVENILE AND DOMESTIC RELATIONS COURT FOR EXECUTION OF CONSENT AND AWARDING OF CUSTODY TO THE PROSPECTIVE ADOPTIVE PARENTS. THE JUVENILE AND DOMESTIC RELATIONS COURT REVIEWS THE HOME STUDY REPORT AND COLLATERAL MATERIAL TO DETERMINE WHETHER THE REQUIREMENTS OF LAW HAVE BEEN MET, ACCEPTS PARENTAL CONSENT, AND TRANSFERS CUSTODY TO THE ADOPTIVE PARENTS. AN ADOPTION PETITION MAY THEN BE FILED IN CIRCUIT COURT.

- ▣ IN THIS TYPE OF PLACEMENT, CONSENT DOES NOT HAVE TO BE EXECUTED IN THE JUVENILE COURT IN THE PRESENCE OF THE PROSPECTIVE ADOPTIVE PARENTS. THE COURT MAY ACCEPT THE WRITTEN CONSENT THAT HAS BEEN SIGNED AND ACKNOWLEDGED BY AN OFFICER OF THE COURT AND A HEARING IS NOT REQUIRED (Section 63.1-219.40.6).
- ▣ A SIMULTANEOUS MEETING BETWEEN THE BIRTH AND PROSPECTIVE ADOPTIVE PARENTS IS NOT REQUIRED IN THIS TYPE OF PLACEMENT (Section 63.1-219.38).
- ▣ THE BIRTH AND ADOPTIVE PARENTS MUST STILL EXCHANGE IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL AND PSYCHOLOGICAL INFORMATION AND ANY OTHER INFORMATION NECESSARY TO PROMOTE THE WELFARE OF THE CHILD (Section 63.12-19. 38(v)).

The overall steps in this type of parental placement are as follows: (i) the agency receives a request for a home study; (ii) a home study is completed; (iii) a report of the home study is submitted to the juvenile and domestic relations district court; (iv) adoptive parents file a petition for a consent hearing in juvenile and domestic relations district court; (v) court accepts written consent and awards custody to the prospective adoptive parents; (vi) a petition for adoption is filed in the Circuit Court; and (vii) the circuit court omits the Order of Reference and Interlocutory Order of adoption if everything has been done in compliance with law and enters a final order of adoption.

- 4.1 RESPONSIBILITIES OF THE AGENCY IN A PARENTAL PLACEMENT ADOPTION BEFORE THE ADOPTION PETITION IS FILED IN THE CIRCUIT COURT.

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IN A PARENTAL PLACEMENT, IN ORDER FOR THE JUVENILE AND DOMESTIC RELATIONS COURT TO MAKE THE REQUIRED DETERMINATIONS BEFORE ACCEPTING CONSENT, THE AGENCY SHALL:

4.1.1 OPEN THE CASE

In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the Juvenile and Domestic Relations Court. The request will come from either the birth parent or adoptive parent. In some cases, the agency will receive an Order For a Home Study directly from the court.

When the request for services comes from either the birth parent or the prospective adoptive parents, a service application is completed. In cases where the court order initiates the request for services, the court order serves as the service application.

4.1.1.1 SET UP CASE RECORDS

A parental placement case record should contain the following documents:

- Service application (or court order);

- all court orders;

- home study, including all certifications;

- Home Study Report;

- Report of Investigation, if applicable;

- Report of Visitation;

- all correspondence;

- narrative

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4.1.2 CONDUCT A HOME STUDY OF THE PROSPECTIVE ADOPTIVE HOME

The adoptive home study is a process that involves the adoptive applicants in determining with the agency whether they can meet the needs of an adopted child. The home study should be carried out so that it brings about increased understanding of the adoption process and begins to prepare the applicants for adoption.

4.1.2.1 THE MANNER IN WHICH A FAMILY RECEIVES A CHILD FOR ADOPTION SHALL HAVE NO BEARING ON HOW THE FAMILY IS TO BE ASSESSED FOR PURPOSES OF ADOPTIVE PLACEMENT. THE CRITERIA OF CAPACITY FOR PARENTHOOD ARE THE SAME WHETHER THE CHILD WAS PLACED BY AN AGENCY, BY THE BIRTH PARENTS, OR BY A LEGAL GUARDIAN.

4.1.2.2 THE DIFFERENCE BETWEEN COMPLETING A HOME STUDY FOR A CHILD PLACED BY AN AGENCY AND FOR A CHILD PLACED BY BIRTH PARENTS IS IN THE ROLE OF THE AGENCY, NOT IN THE ASSESSMENT OF THE ADOPTIVE FAMILY.

☐ IN AN AGENCY PLACEMENT, THE AGENCY APPROVES OR DENIES ADOPTIVE APPLICANTS BASED ON AGENCY STANDARDS.

☐ IN A PARENTAL PLACEMENT, THE AGENCY MAKES A RECOMMENDATION TO THE COURT REGARDING THE SUITABILITY OF THE FAMILY TO ADOPT.

☐ THE RECOMMENDATION IS BASED ON AN ASSESSMENT OF WHETHER THE PLACEMENT IS CONTRARY TO THE BEST INTEREST OF THE CHILD.

☐ THE ASSESSMENT IS BASED ON INFORMATION GATHERED DURING THE HOME STUDY PROCESS. See the Forms section for the format for THE HOME STUDY REPORT.

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4.1.2.3 In a parental placement, it is during the home study that the agency determines that:

- ▶ THE BIRTH PARENT(S) ARE AWARE OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES, AND THAT THE BIRTH PARENTS' CONSENT IS INFORMED AND UNCOERCED (Section 63.1-219.39A1).
- ▶ THE FAMILY IS INFORMED OF ALTERNATIVES TO ADOPTION; ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENTS; THE PROCEDURES FOR TERMINATING PARENTAL RIGHTS; AND THE OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN (Section 63.1-219.A2).

4.1.2.4 In a parental placement, it is important for the home study to be completed as early in the process as possible. Early completion of the home study provides safeguards for the child and facilitates the adoption process.

- ▶ In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the Juvenile and Domestic Relations Court. The request will come from either the birth parent or adoptive parent.
- ▶ In some cases, the agency will receive an Order For a Home Study directly from the court.

4.1.2.5 In a parental placement, the agency is not responsible for approving or denying the family. State law gives birth parents the right to place their child with a family of their choice.

- ▶ The agency's responsibility is to assess the family and report its findings to the Juvenile Court.

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- ☐ The birth family and the Juvenile Court will make the determination as to whether the family is a suitable family for the child.

4.1.2.6 After completing the home study, the agency should inform the birth parents of their recommendation to the court. When the agency's recommendation is that the placement appears to be contrary to the welfare of the child, the birth parents may want their attorney present for the court hearing.

4.1.2.7 A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. See Section 5 - The Adoptive Home Study for adoptive home standards and assessment criteria.

4.1.3 PROVIDE THE COURT WITH A REPORT OF THE HOME STUDY.

The report to court is a separate document from the home study; however, information in the home study should be included in the court report. The Home Study Report is submitted after the petition has been filed in juvenile court.

4.1.3.1 TWO COPIES OF THE HOME STUDY REPORT MUST BE SENT WITH THE ORIGINAL FOR THE COURT, AT ITS DISCRETION, TO PROVIDE TO THE BIRTH AND ADOPTIVE PARENTS.

- ☐ The agency worker may give prospective adoptive parent(s) a copy of the court report.

- ☐ The agency worker may also give the attorney representing the adoptive parent(s) the required number of copies of the home study report to file with the court.

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the duplication of reports made pursuant to Code Section 63.1-219.45.

- ☐ The attorney should be advised of the confidential nature of the material contained in these reports. It should be suggested that the attorney use discretion when sharing the report with others and that an effort be made to return extra copies of the report to the Circuit Court once the adoption is finalized.

4.1.4 FORMAT THE HOME STUDY REPORT IN THE MANNER PRESCRIBED BY THE ADOPTIONS UNIT (See the Forms section for sample format).

The report is to include the following (Section 63.1-219.38):

- 4.1.4.1 INFORMATION REGARDING WHETHER THE PROSPECTIVE ADOPTIVE PARENTS ARE FINANCIALLY ABLE, MORALLY SUITABLE, AND IN SATISFACTORY PHYSICAL AND MENTAL HEALTH TO ENABLE THEM TO CARE FOR THE CHILD;
- 4.1.4.2 THE PHYSICAL AND MENTAL CONDITION OF THE CHILD, IF KNOWN;
- 4.1.4.3 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE, OR WILL BE LIVING, IN THE HOME OF THE PROSPECTIVE ADOPTIVE FAMILY, AS APPLICABLE;
- 4.1.4.4 WHAT FEES HAVE BEEN PAID BY THE PROSPECTIVE ADOPTIVE FAMILY OR IN THEIR BEHALF IN THE PLACEMENT AND ADOPTION OF THE CHILD. Fees that are allowable expenses include (Section 63.1-219.25):
 - ☐ REASONABLE AND CUSTOMARY SERVICES PROVIDED BY A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY AND FEES, BASED ON PREVAILING COMMUNITY RATES, PAID FOR SUCH SERVICES;

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- ☐ PAYMENT OR REIMBURSEMENT FOR MEDICAL EXPENSES AND INSURANCE PREMIUMS WHICH ARE DIRECTLY RELATED TO THE BIRTH MOTHER'S PREGNANCY AND HOSPITALIZATION FOR THE BIRTH OF THE CHILD WHO IS THE SUBJECT OF THE ADOPTION PROCEEDINGS, FOR MENTAL HEALTH COUNSELING RECEIVED BY THE BIRTH MOTHER OR BIRTH FATHER RELATED TO THE ADOPTION, AND FOR EXPENSES INCURRED FOR MEDICAL CARE FOR THE CHILD;
- ☐ PAYMENT OR REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES FOR FOOD, CLOTHING, AND SHELTER WHEN, UPON THE WRITTEN ADVISE OF HER PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF DUE TO MEDICAL REASONS OR COMPLICATIONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD;
- ☐ PAYMENT OR REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED INCIDENT TO ANY COURT APPEARANCE PURSUANT TO §63.1-219.40) INCLUDING, BUT NOT LIMITED TO, TRANSPORTATION, FOOD, AND LODGING;
- ☐ USUAL AND CUSTOMARY FEES, BASED ON PREVAILING COMMUNITY RATES, FOR LEGAL SERVICES IN ADOPTION PROCEEDINGS; AND
- ☐ PAYMENT OR REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY ADOPTIVE PARENTS FOR TRANSPORTATION IN CONNECTION WITH ANY OF THE SERVICES SPECIFIED IN §63.1-220.3 OR INTER-COUNTRY PLACEMENTS AND AS NECESSARY FOR COMPLIANCE WITH STATE AND FEDERAL LAW IN SUCH PLACEMENTS.

ANY PERSON OR AGENCY CHARGING, PAYING, GIVING, OR AGREEING TO GIVE OR ACCEPT ANY MONEY, PROPERTY, SERVICE OR OTHER THING OF VALUE IN CONNECTION WITH A PLACEMENT OR ADOPTION, EXCEPT THOSE FEES ALLOWED, IS GUILTY OF A CLASS 6 FELONY.

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- 4.1.4.5 A STATEMENT AS TO WHETHER THE REQUIREMENTS OF
LAW RELATED TO EXECUTION OF CONSENT HAVE BEEN
MET (Section 63.1-219.38)

In addition to reporting to the court whether the legal requirements have been met, the Agency must also provide some services to meet the legal requirements. Services to be provided and the method of reporting are described below for each of the requirements of law:

- ☐ THE CHILD MUST BE AT LEAST 10 DAYS OLD BEFORE CONSENT CAN BE EXECUTED.
- ☐ When there is an identified child, the agency must verify the child's birth (if a birth certificate is not available due to the child having been recently born, verification may be made through a hospital certificate). The agency should make an attempt to get a certified copy of the birth certificate with the birth registration number as soon as possible.
- ☐ The agency must include birth information in the home study report.
- ☐ The birth registration number should be listed on the Report of Visitation and the Commissioner's Confidential Report form.
(See the Forms section)
- ☐ THE BIRTH PARENT(S) MUST BE AWARE OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES, THEIR OPPORTUNITY TO BE REPRESENTED BY LEGAL COUNSEL, AND CONSENT OF THE BIRTH PARENTS MUST BE INFORMED AND UNCOERCED (Section 63.1-219.39A1).

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- ☐ Anyone may provide the required information to birth parents including doctors, attorneys, ministers, and friends.
- ☐ The agency's responsibility is to determine whether this information has been provided, and if not, to provide it.
- ☐ This information is reported on the Certification Form (See the Forms section).
- ☐ When birth parents indicate that they desire additional counseling to help them work through feelings and issues related to placing the child for adoption, the role of the agency is to assist the birth parent(s) in obtaining this counseling. The agency may provide the counseling directly or refer the birth parent(s) to another community agency.
- ☐ THE ADOPTIVE FAMILY MUST HAVE BEEN PROVIDED COUNSELING WITH REGARD TO ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENT AND THE PROCEDURES FOR TERMINATING SUCH RIGHTS, AND OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN, AND THEIR DECISION TO ADOPT MUST BE INFORMED AND UNCOERCED (Section 63.1-219.39A2)
- ☐ The agency is responsible for providing this counseling to the adoptive family and for confirming that their decision is uncoerced (when discussing alternatives to adoption, the agency may discuss the opportunities for the adoption of other children);

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- ☐ This information is reported on the Certification Form (See the Forms section)
- ☐ THE BIRTH PARENT(S) AND ADOPTIVE PARENTS MUST EXCHANGE IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL, AND PSYCHOLOGICAL INFORMATION (Section 63.1-219.39A3).
- ☐ THE ORIGINAL AND TWO COPIES OF THE HOME STUDY REPORT ARE PROVIDED TO THE COURT AND THE COURT, AT ITS DISCRETION, PROVIDES THE BIRTH AND ADOPTIVE PARENTS WITH COPIES OF THE HOME STUDY REPORT.
- ☐ The agency certifies in writing that identifying information including, but not limited to full names, addresses, physical, mental, social and psychological information was exchanged between the birth parent(s) and the adoptive parents (see the Forms section for the Certificate Form).
- ☐ THE BIRTH PARENT(S) AND ADOPTIVE PARENTS SHALL FILL OUT AND SIGN A PRESCRIBED DOCUMENT LISTING THEIR NAME, ADDRESS, TELEPHONE NUMBER, AND BACKGROUND INFORMATION TO INCLUDE, BUT NOT BE LIMITED TO, PHYSICAL, MENTAL, SOCIAL AND PSYCHOLOGICAL INFORMATION. A COPY OF THIS DOCUMENT SHALL BE PRESERVED AS PART OF THE AGENCY'S PERMANENT ADOPTION RECORD. THE AGENCY SHALL MAKE AVAILABLE AT ANYTIME TO BOTH PARTIES A COPY OF THIS DOCUMENT. (See the Forms section for a suggested sample document to be used for the purpose of sharing identifying information).

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- ☐ THE SIMULTANEOUS MEETING REQUIRED IN NON-RELATIVE PARENTAL PLACEMENTS IS NOT REQUIRED WHEN THE CHILD IS PLACED WITH A RELATIVE OF A SPECIFIED DEGREE (Section 63.1-219.38).
- ☐ UPON ENTRY OF THE FINAL ORDER OF ADOPTION, ANOTHER COPY OF THIS DOCUMENT AND ALL OTHER INFORMATION IN THE ADOPTION RECORD SHALL BE SENT TO THE ADOPTIONS UNIT AT THE VIRGINIA DEPARTMENT OF SOCIAL SERVICES FOR PRESERVATION AND RELEASE IN ACCORDANCE WITH THE PROVISIONS OF CODE SECTION 63.1-219.53.
- ☐ ALL FINANCIAL AGREEMENTS OR EXCHANGE OF PROPERTY AMONG THE PARTIES, INCLUDING FEES PAID FOR SERVICES RELATED TO THE PLACEMENT AND ADOPTION OF THE CHILD, MUST BE REPORTED TO THE COURT. (Section 63.1-219.25)
- ☐ The agency includes this information in the home study report that is submitted to the Juvenile court.
- ☐ ALL PARTIES MUST UNDERSTAND THAT NO BINDING CONTRACT EXISTS REGARDING PLACEMENT OR ADOPTION OF THE CHILD (Section 63.1-219.39A4).
- ☐ Birth parents may change their minds about adoption, even after executing consent. Consent does not terminate parental rights and may be REVOKED FOR ANY REASON FOR UP TO FIFTEEN DAYS FROM ITS EXECUTION OR BY ANY PARTY PRIOR TO THE FINAL ORDER OF ADOPTION UPON PROOF OF FRAUD OR DURESS (Section 63.1-219.41.1 and 63.1-219.41.2)
- ☐ The adoptive parents may also decide not to pursue the adoption. The agency's responsibility is to ensure that both parties understand that the only guarantee of adoption in a parental placement is the entry of the final order of adoption.

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- ▶ ANY PERSON WHO ENGAGES IN THE ACTIVITIES OF A CHILD-PLACING AGENCY WITHOUT A LICENSE TO DO SO SHALL BE GUILTY OF A MISDEMEANOR(Section 63.1-215).
- ▶ The agency shall include this in the court report
- ▶ A Report must also be sent to the Commissioner for investigation of the suspected violation. The format for reporting such violations is shown in the Forms section. THESE ACTIVITIES INCLUDE:
 - ▶ TAKING CUSTODY OF A CHILD FOR PURPOSES OF PLACING THE CHILD FOR ADOPTION;
 - ▶ CONDUCTING AN ADOPTIVE HOME STUDY;
 - ▶ SELECTING A PARTICULAR ADOPTIVE HOME FOR A CHILD;
 - ▶ PLACING A CHILD IN AN ADOPTIVE HOME; AND
 - ▶ PROVIDING SUPERVISION OF THE PLACEMENT TO MEET LEGAL REQUIREMENTS RELATED TO VISITATION OF THE CHILD AND FAMILY.
- ▶ THE AGENCY'S RECOMMENDATION REGARDING THE SUITABILITY OF THE PLACEMENT:
 - ▶ The agency's recommendation must be based on whether the placement is contrary to the best interest of the child.
 - ▶ WHEN THE RECOMMENDATION IS THAT THE PLACEMENT MAY BE CONTRARY TO THE BEST INTEREST OF THE CHILD, THE HOME STUDY REPORT MUST PROVIDE INFORMATION ABOUT THE

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BASIS FOR THE AGENCY'S RECOMMENDATION
(Section 63.1-219.42).

- ▣ ANY OTHER MATTERS SPECIFIED BY THE COURT
(Section 63.1-219.38).

4.1.4 IF THE AGENCY SUSPECTS THERE HAS BEEN AN EXCHANGE OF PROPERTY, MONEY, SERVICES, OR ANY OTHER THING OF VALUE IN VIOLATION OF LAW IN THE PLACEMENT OR ADOPTION OF THE CHILD, THE AGENCY SHALL REPORT THE FINDINGS TO THE ADOPTIONS UNIT FOR INVESTIGATION (if the agency has questions as to whether a violation of Code Section 63.1-219.25 has occurred, it is recommended that the agency ask the prospective adoptive family to obtain an itemized account of services rendered for the fees charged). THE FOLLOWING EXCEPTIONS APPLY:

- 4.1.4.1 REASONABLE AND CUSTOMARY SERVICES PROVIDED BY A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY AND FEES, BASED ON PREVAILING COMMUNITY RATES, PAID FOR SUCH SERVICES;
- 4.1.4.2 PAYMENT OR REIMBURSEMENT FOR MEDICAL EXPENSES AND INSURANCE PREMIUMS WHICH ARE DIRECTLY RELATED TO THE BIRTH MOTHER'S PREGNANCY AND HOSPITALIZATION FOR THE BIRTH OF THE CHILD WHO IS THE SUBJECT OF THE ADOPTION PROCEEDINGS, FOR MENTAL HEALTH COUNSELING RECEIVED BY THE BIRTH MOTHER OR BIRTH FATHER RELATED TO THE ADOPTION, AND FOR EXPENSES INCURRED FOR MEDICAL CARE FOR THE CHILD;
- 4.1.4.3 PAYMENT OR REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES FOR FOOD, CLOTHING, AND SHELTER WHEN, UPON THE WRITTEN ADVISE OF HER PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF DUE TO MEDICAL REASONS OR COMPLICATIONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD.
- 4.1.4.4 PAYMENT OR REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED INCIDENT TO ANY COURT APPEARANCE PURSUANT TO SECTION 63.1-220.3 INCLUDING, BUT NOT LIMITED TO, TRANSPORTATION FOOD AND LODGING.
- 4.1.4.5 USUAL AND CUSTOMARY FEES, BASED ON PREVAILING COMMUNITY RATES, FOR LEGAL SERVICES IN ADOPTION PROCEEDINGS; AND

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4.1.4.6 PAYMENT OR REIMBURSEMENT OF REASONABLE EXPENSES INCURRED FOR TRANSPORTATION IN CONNECTION WITH ANY OF THE SERVICES SPECIFIED IN SECTION 63.1 220.3 OR INTER-COUNTRY PLACEMENTS AND AS NECESSARY FOR COMPLIANCE WITH STATE AND FEDERAL LAW IN SUCH PLACEMENTS.

4.1.5 IF THE AGENCY BECOMES AWARE THAT ANY PERSON HAS KNOWINGLY AND INTENTIONALLY PROVIDED FALSE INFORMATION IN WRITING AND UNDER OATH, WHICH IS MATERIAL TO AN ADOPTIVE PLACEMENT, THE AGENCY SHALL REPORT THIS TO THE ADOPTIONS UNIT (Section 63.1-219.24).

4.1.6 After the petition for adoption is filed in the Circuit Court, the agency has additional responsibilities (See Section 4.7).

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4.2 RESPONSIBILITIES OF THE ATTORNEY IN PARENTAL PLACEMENT ADOPTION IN
JUVENILE COURT

4.2.1 FILE PETITION FOR CONSENT HEARING (Section 63.1-219.40)

4.2.2 OBTAIN CONSENT FROM (Section 63.1-219.10):

4.2.2.1 THE MOTHER;

4.2.2.2 THE LEGAL FATHER;

- ☐ The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.
- ☐ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.
- ☐ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST 300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED.

4.2.2.3 THE BIRTH FATHER;

- ☐ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT.
- ☐ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE

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BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.

- ☐ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS.

4.2.2.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT;

4.2.2.5 THE LEGAL GUARDIAN, if appropriate.

- ☐ In cases where a guardian is consenting to the adoption, the birth parent(s) do not need to appear in the Juvenile and Domestic Relations Court to execute consent.

- ☐ Also, the simultaneous meeting between the agency social worker and the birth parent(s) and prospective adoptive parents is not required.

- ☐ The requirements in 4.1.3, however, still need to be met. Even though the guardian is consenting, the court cannot accept consent until it finds that the birth and adoptive parents are making informed and uncoerced decisions.

4.2.2.6 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED (Section 63.1-219.40.3).

4.2.2.7 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION WITHOUT THE FILING OF ANY CONSENT (63.1-219.40.5).

4.2.2.8 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT IS NOT REQUIRED:

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- ▣ IF THE PARENT IS DECEASED (Section 63.1-219.10C1)
- ▣ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT HAVE BEEN TERMINATED BY THE DIVORCE DECREE OR ANOTHER ORDER OF A COURT (Section 63.1-219.10C1);
- ▣ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF (Section 63.1-219.10C2):
 - ▣ THE BIRTH MOTHER SWEARS UNDER OATH AND IN WRITING THAT THE IDENTITY OF THE BIRTH FATHER IS NOT REASONABLY ASCERTAINABLE (Section 63.1-219.40.1a);
 - ▣ THE IDENTITY OF THE BIRTH FATHER IS ASCERTAINABLE AND HIS WHEREABOUTS ARE KNOWN, HE IS GIVEN NOTICE OF THE PROCEEDINGS BY REGISTERED OR CERTIFIED MAIL TO HIS LAST KNOWN ADDRESS AND FAILS TO OBJECT TO THE PROCEEDING WITH TWENTY-ONE DAYS OF THE MAILING OF THE NOTICE (Section 63.1-219.40.1a);OR
 - ▣ THE PUTATIVE BIRTH FATHER NAMED BY THE BIRTH MOTHER DENIES UNDER OATH AND IN WRITING PATERNITY OF THE CHILD (Section 63.1-219.40.2).

4.2.2.9

WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

- ▣ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there

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should be a returned postal receipt signed by the parent to indicate that notice was received.); OR

▣ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR

▣ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

4.2.2.10 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7) .

4.2.3 Prepares the appropriate orders for the court.

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- 4.3 RESPONSIBILITIES OF THE JUVENILE COURT IN A PARENTAL PLACEMENT BEFORE THE ADOPTION PETITION IS FILED IN CIRCUIT COURT
- 4.3.1 ADVANCE THE CONSENT PROCEEDINGS ON THE DOCKET TO BE HEARD WITHIN 10 DAYS OF FILING OF THE PETITION, OR AS SOON THEREAFTER AS PRACTICABLE (Section 63.1-219.37).
- 4.3.2 CONSENT MUST BE EXECUTED IN
- 4.3.2.1 THE JUVENILE AND DOMESTIC RELATIONS COURT IN THE CITY OR COUNTY WHERE THE CHILD TO BE ADOPTED WAS BORN; IN THE CITY OR COUNTRY WHERE THE BIRTH PARENTS RESIDE; OR IN THE CITY OR COUNTY WHERE THE PROSPECTIVE ADOPTIVE PARENTS RESIDE (Section 63.1-2431c)
- 4.3.2.2 IF THE BIRTH PARENT DOES NOT RESIDE IN VIRGINIA, BEFORE A COURT HAVING JURISDICTION OVER CHILD CUSTODY MATTERS IN THE JURISDICTION WHERE THE BIRTH PARENT RESIDES WHEN REQUESTED BY A COURT OF VIRGINIA (Section 63.1-219.37).
- ▣ All requirements of Virginia laws governing parental placement adoptions (Chapter 10.2, Article 3).
 - ▣ The juvenile court in Virginia writes a letter to the court in the locality where the birth parent resides and sets out the requirements that must be met before the out-of-state court can accept parental consent.
- 4.3.3 CONSENT MUST BE EXECUTED BY THE BIRTH PARENT(S) WHILE BEFORE THE JUVENILE AND DOMESTIC RELATIONS COURT IN PERSON AND IN THE PRESENCE OF THE PROSPECTIVE ADOPTIVE PARENTS (Section 63.1-219.40).
- 4.3.4 IF THE CHILD WAS PLACED BY THE BIRTH PARENT(S) WITH THE PROSPECTIVE ADOPTIVE PARENTS AND IF BOTH BIRTH PARENTS HAVE FAILED, WITHOUT GOOD CAUSE, TO APPEAR AT A HEARING TO EXECUTE CONSENT, THE COURT MAY GRANT THE PETITION WITHOUT THE CONSENT OF EITHER BIRTH PARENT AND ENTER AN ORDER WAIVING CONSENT AND TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS (Section 63.1-219.40.4).

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4.3.4.1 THE ORDER WILL BECOME EFFECTIVE FIFTEEN DAYS AFTER IT IS ENTERED.

4.3.4.2 PRIOR TO THE ENTRY OF SUCH AN ORDER, THE COURT MAY APPOINT LEGAL COUNSEL FOR THE BIRTH PARENTS AND MUST FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE:

☐ BIRTH PARENTS WERE GIVEN PROPER NOTICE OF THE HEARING TO EXECUTE CONSENT AND OF THE HEARING TO PROCEED WITHOUT THEIR CONSENT,

☐ BIRTH PARENTS FAILED TO SHOW GOOD CAUSE FOR THEIR FAILURE TO APPEAR AT SUCH HEARINGS, AND

☐ THE CONSENT OF THE BIRTH PARENTS IS WITHHELD CONTRARY TO THE BEST INTERESTS OF THE CHILD OR IS UNOBTAINABLE.

4.3.5 IN DETERMINING WHETHER THE VALID CONSENT OF ANY PERSON WHOSE CONSENT IS REQUIRED IS WITHHELD CONTRARY TO THE BEST INTERESTS OF THE CHILD, OR IS UNOBTAINABLE, THE COURT SHALL CONSIDER WHETHER THE FAILURE TO GRANT THE PETITION FOR ADOPTION WOULD BE DETRIMENTAL TO THE CHILD. IN DETERMINING WHETHER THE FAILURE TO GRANT THE PETITION WOULD BE DETRIMENTAL TO THE CHILD, THE COURT MUST CONSIDER ALL RELEVANT FACTORS, INCLUDING:

4.3.5.1 THE BIRTH PARENT(S) EFFORTS TO OBTAIN OR MAINTAIN LEGAL AND PHYSICAL CUSTODY OF THE CHILD;

4.3.5.2 WHETHER THE BIRTH PARENT(S) EFFORTS TO ASSERT PARENTAL RIGHTS WERE THWARTED BY OTHER PEOPLE;

4.3.5.3 THE BIRTH PARENT(S) ABILITY TO CARE FOR THE CHILD, THE AGE OF THE CHILD;

4.3.5.4 THE QUALITY OF ANY PREVIOUS RELATIONSHIP BETWEEN THE BIRTH PARENT(S) AND THE CHILD AND BETWEEN THE BIRTH PARENT(S) AND ANY OTHER MINOR CHILDREN;

4.3.5.5 THE DURATION AND SUITABILITY OF THE CHILD'S PRESENT CUSTODIAL ENVIRONMENT AND THE EFFECT OF A CHANGE OF PHYSICAL CUSTODY ON THE CHILD.

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4.3.6 BEFORE ACCEPTING CONSENT IN A PARENTAL PLACEMENT, THE JUVENILE AND DOMESTIC RELATIONS COURT MUST DETERMINE THAT:

- 4.3.6.1 THE CHILD IS AT LEAST 10 DAYS OLD;
(Section 63.1-219.40)
- 4.3.6.2 THE BIRTH PARENT(S) ARE AWARE OF ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, AND OPPORTUNITIES FOR PLACEMENT WITH OTHER ADOPTIVE FAMILIES, AND THAT THE BIRTH PARENTS' CONSENT IS INFORMED AND UNCOERCED.
(Section 63.1-219.39A.1)
(This information is provided to the court by the agency on the Certification form in the Forms section).
- 4.3.6.3 A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY HAS COUNSELED THE PROSPECTIVE ADOPTIVE PARENTS WITH REGARD TO ALTERNATIVES TO ADOPTION, ADOPTION PROCEDURES, INCLUDING THE NEED TO ADDRESS THE PARENTAL RIGHTS OF THE BIRTH PARENTS, THE PROCEDURES FOR TERMINATING SUCH RIGHTS, AND OPPORTUNITIES FOR ADOPTION OF OTHER CHILDREN; THAT THE PROSPECTIVE ADOPTIVE PARENTS' DECISION IS INFORMED AND UNCOERCED; AND THAT THEY INTEND TO FILE AN ADOPTION PETITION AND PROCEED TOWARD A FINAL ORDER OF ADOPTION. (Section 63.1-219.39A.2)
(This information is provided to the court by the agency on the Certification form in the Forms section);
- 4.3.6.4 THE BIRTH PARENT(S) AND ADOPTIVE PARENTS HAVE EXCHANGED IDENTIFYING INFORMATION INCLUDING BUT NOT LIMITED TO FULL NAMES, ADDRESSES, PHYSICAL, MENTAL, SOCIAL AND PSYCHOLOGICAL INFORMATION AND ANY OTHER INFORMATION NECESSARY TO PROMOTE THE WELFARE OF THE CHILD. (Section 63.1-219.39A.2)
(This information is provided to the court by the agency on the Certification form in the Forms section).
- 4.3.6.5 ANY FINANCIAL AGREEMENT OR EXCHANGE OF PROPERTY AMONG THE PARTIES AND ANY FEES CHARGED OR PAID FOR SERVICES RELATED TO THE PLACEMENT OR ADOPTION OF THE CHILD HAVE BEEN DISCLOSED TO THE COURT AND THAT ALL PARTIES UNDERSTAND THAT NO BINDING CONTRACT REGARDING PLACEMENT OR ADOPTION OF THE CHILD EXISTS;
(Section 63.1-219.39A.4)

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4.3.6.6 THERE HAS BEEN NO VIOLATION OF LAW IN CONNECTION WITH THE PLACEMENT (Section 63.1-219.39A.5)

4.3.6.7 A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY HAS CONDUCTED A HOME STUDY OF THE PROSPECTIVE ADOPTIVE HOME IN ACCORDANCE WITH THE GUIDELINES LISTED ON PAGES 21-26; AND THAT DURING THE COURSE OF THE HOME STUDY, THE WORKER HAS MET AT LEAST ONCE WITH THE BIRTH PARENT AND PROSPECTIVE ADOPTIVE PARENTS SIMULTANEOUSLY. (Section 63.1-219.39A.6).
(This information is provided to the court by the agency on the Certification form in the Forms section).

4.3.6.8 THE BIRTH PARENTS HAVE BEEN INFORMED OF THEIR OPPORTUNITY TO BE REPRESENTED BY LEGAL COUNSEL. (Section 63.1-219.39A.7)

4.3.6.9 IF ANY OF THE REQUIREMENTS IN THIS SECTION HAVE NOT BEEN MET, THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL REFER THE BIRTH PARENT TO A LICENSED OR DULY AUTHORIZED CHILD-PLACING AGENCY FOR INVESTIGATION AND RECOMMENDATION (Section 63.1-219.39B).

4.3.7 CONSENT SHALL BE REVOCABLE AS FOLLOWS (Section 63.1-219.41):

4.3.7.1 BY EITHER CONSENTING BIRTH PARENT FOR ANY REASON FOR UP TO FIFTEEN DAYS FROM ITS EXECUTION (Section 63.1-219.41.1):

☐ REVOCATION MUST BE IN WRITING, SIGNED BY THE REVOKING PARTY OR COUNSEL OF RECORD FOR THE REVOKING PARTY, AND FILED WITH THE CLERK OF THE COURT IN WHICH THE PETITION WAS FILED DURING THE BUSINESS DAY OF THE COURT, WITHIN THE FOLLOWING TIME PERIOD:

☐ IF THE REVOCATION PERIOD EXPIRES ON A SATURDAY, SUNDAY, LEGAL HOLIDAY OR ANY DAY ON WHICH THE CLERK'S OFFICE IS CLOSED, THE REVOCATION PERIOD SHALL BE EXTENDED TO THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, LEGAL HOLIDAY OR OTHER DAY ON WHICH THE CLERK'S OFFICE IS CLOSED.

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- ☐ UPON THE FILING OF A VALID REVOCATION WITHIN THE TIME PERIOD SPECIFIED, THE COURT MUST ORDER THAT ANY CONSENT GIVEN FOR THE PURPOSE OF SUCH PLACEMENT IS VOID AND, IF NECESSARY, DETERMINE CUSTODY OF THE CHILD AS BETWEEN THE BIRTH PARENTS.

4.3.7.5 BY ANY PARTY PRIOR TO THE FINAL ORDER OF ADOPTION (I) UPON PROOF OF FRAUD OR DURESS OR (II) AFTER PLACEMENT OF THE CHILD IN AN ADOPTIVE HOME, UPON WRITTEN MUTUAL CONSENT OF THE BIRTH PARENTS AND PROSPECTIVE ADOPTIVE PARENTS (Section 63.1-219.41.2)

4.3.8 AFTER ACCEPTING CONSENT, THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL TRANSFER CUSTODY TO THE PROSPECTIVE ADOPTIVE PARENTS, TO BE RESPONSIBLE FOR THE CARE OF THE CHILD UNTIL SUCH TIME AS THE COURT ORDER IS MODIFIED (Section 63.1-219.40).

4.3.8.1 THE JUVENILE AND DOMESTIC RELATIONS COURT SHALL REVIEW SUCH ORDERS OF APPOINTMENT AT LEAST ANNUALLY UNTIL SUCH TIME AS THE FINAL ORDER OF ADOPTION IS ENTERED; (Section 63.1-219.40.8).

4.3.8.2 WHEN A CHILD IS PLACED IN AN ADOPTIVE HOME BY THE BIRTH PARENT AND A COURT OF COMPETENT JURISDICTION HAS NOT ENTERED AN INTERLOCUTORY ORDER OF ADOPTION, THE CHILD SHALL NOT BE REMOVED FROM THE PHYSICAL CUSTODY OF THE ADOPTIVE PARENTS, EXCEPT (Section 63.1-219.15):

- ☐ WITH THE CONSENT OF THE ADOPTIVE PARENTS, AND
- ☐ UPON ORDER OF THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT OR THE CIRCUIT COURT OF COMPETENT JURISDICTION,
- ☐ PURSUANT TO §63.1-211, WHICH REMOVAL SHALL BE SUBJECT TO REVIEW BY THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT UPON PETITION OF THE ADOPTIVE PARENTS, OR
- ☐ UPON ORDER OF THE COURT WHICH ACCEPTED CONSENT WHEN CONSENT HAS BEEN REVOKED AS AUTHORIZED BY Chapter 10.2 Article 3 or Section 63.1-219.12).

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4.3.9 AFTER THE EXPIRATION OF THE APPROPRIATE REVOCATION PERIOD:
(Section 63.1-219.14)

4.3.9.1 WHEN A BIRTH PARENT OR AN ALLEGED BIRTH PARENT ATTEMPTS TO OBTAIN OR REGAIN CUSTODY OF OR ATTEMPTS TO EXERCISE PARENTAL RIGHTS TO A CHILD WHO HAS BEEN PLACED FOR ADOPTION, THERE SHALL BE NO PARENTAL PRESUMPTION IN FAVOR OF ANY PARTY.

4.3.9.2 UPON THE MOTION OF ANY SUCH BIRTH PARENT OR ALLEGED BIRTH PARENT, OR UPON THE MOTION OF ANY PERSON OR AGENCY WITH WHOM THE CHILD HAS BEEN PLACED, THE COURT SHALL DETERMINE:

☐ WHETHER THE BIRTH PARENT OR ALLEGED BIRTH PARENTS IS A PERSON WHOSE CONSENT TO THE ADOPTION IS REQUIRED AND;

☐ IF SO, WHETHER, IN THE BEST INTEREST OF THE CHILD, THE CONSENT OF THE PERSON WHOSE CONSENT IS REQUIRED IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE.

4.3.10 IF THE JUVENILE AND DOMESTIC RELATIONS COURT SUSPECTS THERE HAS BEEN AN EXCHANGE OF PROPERTY, MONEY, SERVICES, OR ANY OTHER THING OF VALUE IN VIOLATION OF LAW IN THE PLACEMENT OR ADOPTION OF THE CHILD, THE COURT SHALL REPORT THE FINDINGS TO THE COMMISSIONER FOR INVESTIGATION (Section 63.1-219.25).

4.3.10 WHEN SERVICES HAVE BEEN PROVIDED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE COURT SHALL ASSESS A FEE, IN ACCORDANCE WITH REGULATIONS AND FEE SCHEDULES ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES. THE COURT SHALL NOT ACCEPT PARENTAL CONSENT UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (Section 63.1-219.55).

4.3.11 IF THE JUVENILE AND DOMESTIC RELATIONS COURT DETERMINES THAT THE PLACEMENT WILL BE CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE COURT SHALL INFORM THE BIRTH PARENTS. IF THE BIRTH PARENTS CHOOSE NOT TO RETAIN CUSTODY OF THE CHILD NOR TO DESIGNATE OTHER PROSPECTIVE ADOPTIVE PARENTS, OR IF THE BIRTH PARENTS' WHEREABOUTS ARE NOT REASONABLY ASCERTAINABLE, THE COURT SHALL DETERMINE CUSTODY OF THE CHILD (Section 63.1-219.42).

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4.4 RESPONSIBILITIES OF THE COMMISSIONER IN A PARENTAL PLACEMENT ADOPTION WHEN REPORTS OF SUSPECTED VIOLATIONS OF LAW IN THE PLACEMENT AND ADOPTION OF THE CHILD ARE RECEIVED (Section 63.1-219.25).

4.4.1 WHEN REPORTS OF SUSPECTED VIOLATIONS OF LAW IN THE PLACEMENT AND ADOPTION OF THE CHILD ARE RECEIVED BY THE COMMISSIONER, THE COMMISSIONER SHALL:

4.4.1.1. INVESTIGATE THE SUSPECTED VIOLATION; AND TAKE APPROPRIATE ACTION WHEN THE INVESTIGATION REVEALS THAT:

- ▣ THERE MAY HAVE BEEN A VIOLATION OF LAW, THE COMMISSIONER SHALL REPORT HIS FINDINGS TO THE APPROPRIATE ATTORNEY FOR THE COMMONWEALTH;
- ▣ THE VIOLATION OCCURRED IN THE COURSE OF THE PRACTICE OF A PROFESSION OR OCCUPATION LICENSED OR REGULATED PURSUANT TO TITLE 54.1, THE COMMISSIONER SHALL ALSO REPORT HIS FINDINGS TO THE APPROPRIATE REGULATORY AUTHORITY FOR INVESTIGATION AND APPROPRIATE DISCIPLINARY ACTION (Section 63.1-219.26);
- ▣ THE VIOLATION INVOLVES ENGAGING IN THE ACTIVITIES OF A CHILD-PLACING AGENCY WITHOUT A LICENSE, THE COMMISSIONER MAY FILE SUIT WITH THE COURT OF RECORD HAVING CHANCERY JURISDICTION. (Section 63.1-196).
- ▣ A PERSON HAS KNOWINGLY AND INTENTIONALLY PROVIDED FALSE INFORMATION IN WRITING AND UNDER OATH, WHICH IS MATERIAL TO AN ADOPTIVE PLACEMENT (Section 63.1-219.24).

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4.5 RESPONSIBILITIES OF THE CIRCUIT COURT IN A PARENTAL PLACEMENT ADOPTION
AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT.

4.5.1 THE CLERK OF THE COURT WHERE THE PETITION IS FILED SENDS A COPY OF THE PETITION, THE INTERLOCUTORY ORDER, AND ALL EXHIBITS TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR LICENSED PRIVATE CHILD-PLACING AGENCY, WHICHEVER AGENCY COMPLETED THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38. A COPY IS ALSO SENT TO THE COMMISSIONER (Section 63.1-219.16).

4.5.1.1 THE PETITION MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD, IF ANY (Section 63.1-219.44).

4.5.1.2 IN ANY CASE IN WHICH THE PETITION SEEKS THE ENTRY OF AN ADOPTION ORDER WITHOUT REFERRAL FOR INVESTIGATION, THE PETITION SHALL BE UNDER OATH (Section 63.1-219.44).

4.5.2 THE CIRCUIT COURT SHALL NOT ACCEPT A PETITION IN A PARENTAL PLACEMENT UNLESS:

4.5.2.1 COPIES OF DOCUMENTS EXECUTING CONSENT, TRANSFERRING CUSTODY TO THE PETITIONERS, AND THE HOME STUDY REPORT ARE FILED WITH THE PETITION (Section 63.1-219.44); AND

4.5.2.2 THE CIRCUIT COURT HAS DETERMINED THAT THE FINDINGS REQUIRED BY LAW HAVE BEEN MADE BY THE JUVENILE AND DOMESTIC RELATIONS COURT (See pages 2.19-2.20).

4.5.3 WHEN ALL LEGAL REQUIREMENTS RELATED TO EXECUTING CONSENT PURSUANT TO CODE SECTION 63.1-219.39 HAVE BEEN MET, THE CIRCUIT COURT MAY DISPENSE WITH THE ORDER OF REFERENCE AND ENTER AN INTERLOCUTORY ORDER. THE HOME STUDY REPORT THAT WAS SUBMITTED TO THE JUVENILE AND DOMESTIC RELATIONS COURT AND FILED WITH THE PETITION IN THE CIRCUIT COURT TAKES THE PLACE OF THE INVESTIGATION REQUIRED IN OTHER NON-AGENCY ADOPTIONS (SECTION 63.1-219.45B).

4.5.4 IN THOSE PARENTAL PLACEMENTS WHERE AN ORDER OF REFERENCE OR AN INTERLOCUTORY ORDER IS ENTERED, THE COURT DOES NOT TAKE ACTION ON THE AGENCY'S REPORT DURING THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER (Section 63.1-219.45B and Section 63.1-219.19A).

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THE COURT MAY TAKE ANY ACTION IT FINDS APPROPRIATE IF THE REPORT IS NOT SUBMITTED IN THE SPECIFIED TIME. THE COURT MAY:

- 4.5.4.1 ENTER A FINAL ORDER,
 - 4.5.4.2 ENTER AN INTERLOCUTORY ORDER,
 - 4.5.4.3 DENY PETITION,
 - 4.5.4.4 DISMISS PETITION,
 - 4.5.4.5 CONTINUE PROCEEDING, OR
 - 4.5.4.6 SCHEDULE A HEARING.
- 4.5.5 WHEN NO ACTION IS TAKEN BY THE COURT FOR AT LEAST ONE YEAR FROM THE ENTRY OF THE LAST ORDER, THE CLERK OF COURT PLACES THE CASE ON THE DOCKET FOR REVIEW BY THE COURT (Section 63.1-219.21).
- 4.5.6 THE CLERK OF THE COURT SENDS TO THE AGENCY AND TO THE COMMISSIONER A COPY OF ANY ORDER ENTERED (Section 63.1-219.45A).
- 4.5.7 UPON ENTRY OF A FINAL ORDER OR ANY OTHER FINAL DISPOSITION, THE CLERK FORWARDS ALL REPORTS SUBMITTED WITH THE FINAL ORDER TO THE COMMISSIONER FOR PRESERVATION (Section 63.1-219.53).
- 4.5.8 WHEN SERVICES HAVE BEEN PROVIDED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE COURT SHALL ASSESS A FEE, IN ACCORDANCE WITH REGULATIONS AND FEE SCHEDULES ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (Section 63.1-219.55).
- 4.5.9 THE COURT MAY NOT ENTER A FINAL ORDER OF ADOPTION WITHOUT THE INFORMATION NEEDED TO COMPLETE A REPORT OF ADOPTION (VS-21), UNLESS THE COURT DETERMINES THIS INFORMATION IS UNAVAILABLE OR UNNECESSARY (Section 63.1-219.20). The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

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- 4.5.10 AFTER THE ENTRY OF A FINAL ORDER, THE CLERK OF COURT SENDS TO THE STATE DEPARTMENT OF HEALTH, BUREAU OF VITAL RECORDS AND HEALTH STATISTICS A COMPLETED REPORT OF ADOPTION, VS-21, AND A COMPLETED APPLICATION FOR A CERTIFIED COPY OF A BIRTH RECORD, VS-6, WITH A CHECK FOR THE REQUIRED FEE (Section 32.1-262).
- 4.5.11 AFTER THE EXPIRATION OF SIX MONTHS FROM THE DATE OF ENTRY OF ANY FINAL ORDER OF ADOPTION FROM WHICH NO APPEAL HAS BEEN TAKEN TO THE COURT OF APPEALS, THE VALIDITY OF THE FINAL ORDER SHALL NOT BE SUBJECT TO ATTACK IN ANY PROCEEDINGS, COLLATERAL OR DIRECT, FOR ANY REASON, INCLUDING BUT NOT LIMITED TO FRAUD, DURESS, FAILURE TO GIVE ANY REQUIRED NOTICE, FAILURE OF ANY PROCEDURAL REQUIREMENT, OR LACK OF JURISDICTION OVER ANY PERSON AND THE FINAL ORDER SHALL BE FINAL FOR ALL PURPOSES (Section 63.1-219.23).

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4.6 RESPONSIBILITIES OF THE ATTORNEY IN A PARENTAL PLACEMENT ADOPTION AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

4.6.1 files the petition WHICH MUST BE SIGNED BY THE PETITIONER AND COUNSEL AND WHICH MUST STATE THAT THE FINDINGS REQUIRED BY CODE SECTION 63.1-219.39 HAVE BEEN MET AND, WHICH MUST BE ACCOMPANIED BY THE FOLLOWING DOCUMENTATION:

▣ COPIES OF DOCUMENTS EXECUTING CONSENT,

▣ A COPY OF THE COURT ORDER TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS, AND

▣ A COPY OF THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38.

4.6.2 prepares appropriate orders,

4.6.3 informs the petitioners of the legal requirements,

4.6.4 assists the agency in obtaining necessary verifications, and

4.6.5 assists the petitioner(s) in obtaining a new birth certificate for the child.

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4.7 RESPONSIBILITIES OF THE AGENCY IN A PARENTAL PLACEMENT ADOPTION AFTER THE ADOPTION PETITION IS FILED IN THE CIRCUIT COURT.

4.7.1 PETITION

4.7.1.1 Review the Petition

- ▣ The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.
- ▣ The petition must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) reside and the case has been referred to the proper agency. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL, IF ANY (Section 63.1-219.44).
- ▣ THE PETITION MUST BE UNDER OATH WHENEVER THE PETITION SEEKS THE ENTRY OF AN ORDER WITHOUT REFERRAL FOR INVESTIGATION (Section 63.1-219.9).
- ▣ IN A PARENTAL PLACEMENT, THE PETITION MUST STATE THAT THE FINDINGS REQUIRED BY CODE SECTION 63.1-219.39 HAVE BEEN MET, AND MUST BE ACCOMPANIED BY THE FOLLOWING DOCUMENTATION:
 - ▣ COPIES OF DOCUMENTS EXECUTING CONSENT,
 - ▣ A COPY OF THE COURT ORDER TRANSFERRING CUSTODY OF THE CHILD TO THE PROSPECTIVE ADOPTIVE PARENTS, AND
 - ▣ A COPY OF THE HOME STUDY REPORT REQUIRED BY CODE SECTION 63.1-219.38.

4.7.2 ORDER OF REFERENCE

The order of reference is an order from the court directing an agency to make an investigation and report.

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- 4.7.2.1 THE COURT HAS THE OPTION OF DISPENSING WITH THE ORDER OF REFERENCE IF ALL LEGAL REQUIREMENTS RELATIVE TO EXECUTING CONSENT PURSUANT TO CODE SECTION 63.1-219.39 HAVE BEEN MET.

THE HOME STUDY REPORT THAT WAS SUBMITTED TO THE JUVENILE AND DOMESTIC RELATIONS COURT AND FILED WITH THE PETITION IN THE CIRCUIT COURT TAKES THE PLACE OF THE INVESTIGATION REQUIRED BY CODE SECTION 63.1-219.45.

- 4.7.2.2 When an order of reference is entered by the court, it must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The acknowledgment form is in the Forms section.

4.7.3 CONSENTS

The agency does not have the responsibility for obtaining written parental consent. The agency is responsible for reviewing the consent to determine if valid consent has been obtained from (Section 63.1-219.10):

- 4.7.3.1 THE MOTHER;

- 4.7.3.2 THE LEGAL FATHER;

- ▶ The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.
- ▶ If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.
- ▶ THIS PRESUMPTION MAY BE REBUTTED BY SUFFICIENT EVIDENCE, SATISFACTORY TO THE COURT, WHICH WOULD ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THE PATERNITY OF ANOTHER MAN OR THE IMPOSSIBILITY OR IMPROBABILITY OF COHABITATION OF THE BIRTH MOTHER AND HER HUSBAND FOR A PERIOD OF AT LEAST 300 DAYS PRECEDING THE BIRTH OF THE CHILD. IN THIS CASE, THE CONSENT OF THE MOTHER'S HUSBAND IS NOT REQUIRED.

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4.7.3.3 THE BIRTH FATHER;

- ▣ THE COURT MAY ACCEPT THE WRITTEN CONSENT OF THE BIRTH FATHER WHO IS NOT MARRIED TO THE BIRTH MOTHER OF THE CHILD AT THE TIME OF THE CHILD'S CONCEPTION OR BIRTH PROVIDED THAT THE REQUIRED IDENTIFYING INFORMATION IS FILED IN WRITING WITH THE COURT.
- ▣ THE WRITTEN CONSENT MUST BE EXECUTED AFTER THE BIRTH OF THE CHILD, SHALL ADVISE THE BIRTH FATHER OF HIS OPPORTUNITY FOR LEGAL COUNSEL AND SHALL BE PRESENTED TO THE COURT FOR ACCEPTANCE.
- ▣ THE CONSENT MAY WAIVE FURTHER NOTICE OF THE ADOPTION PROCEEDINGS.

4.7.3.4 THE CHILD WHO IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THAT THE BEST INTEREST OF THE CHILD WILL BE SERVED BY NOT REQUIRING SUCH CONSENT;

4.7.3.5 THE LEGAL GUARDIAN, if appropriate.

- ▣ In cases where a guardian is consenting to the adoption, the birth parent(s) do not need to appear in the Juvenile and Domestic Relations Court to execute consent.
- ▣ Also, the simultaneous meeting between the agency social worker and the birth parent(s) and prospective adoptive parents is not required.
- ▣ The requirements in 4.1.3, however, still need to be met. Even though the guardian is consenting, the court cannot accept consent until it finds that the birth and adoptive parents are making informed and uncoerced decisions.

4.7.3.6 IF CONSENT CANNOT BE OBTAINED FROM AT LEAST ONE PARENT, THE COURT SHALL DENY THE PETITION AND

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DETERMINE CUSTODY OF THE CHILD PURSUANT TO CODE
SECTION 16.1-278.2 UNLESS ALL PARENTS ARE DECEASED
(Section 63.1-219.40.3).

4.7.3.7 IF BOTH PARENTS ARE DECEASED, THE COURT, AFTER HEARING
EVIDENCE TO THAT EFFECT, MAY GRANT THE PETITION
WITHOUT THE FILING OF ANY CONSENT (63.1-219.40.5).

4.7.3.8 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE
CONSENT OF THE OTHER PARENT IS NOT REQUIRED:

▣ IF THE PARENT IS DECEASED (Section 63.1-
219.10C1)

▣ WHEN THE PARENTS OF A CHILD BORN IN WEDLOCK ARE
DIVORCED AND THE RESIDUAL PARENTAL RIGHTS AND
RESPONSIBILITIES OF THE PARENT HAVE BEEN
TERMINATED BY THE DIVORCE DECREE OR ANOTHER
ORDER OF A COURT (Section 63.1-219.10C1);

▣ WHEN CONSENT HAS BEEN OBTAINED FROM THE BIRTH
MOTHER, CONSENT OF THE BIRTH FATHER WHO WAS NOT
MARRIED TO THE BIRTH MOTHER AT THE TIME OF THE
CHILD'S CONCEPTION OR BIRTH IS NOT REQUIRED IF
(Section 63.1-219.10C2):

▣ THE BIRTH MOTHER SWEARS UNDER OATH AND IN
WRITING THAT THE IDENTITY OF THE BIRTH
FATHER IS NOT REASONABLY ASCERTAINABLE
(Section 63.1-219.40.1a);

▣ THE IDENTITY OF THE BIRTH FATHER IS
ASCERTAINABLE AND HIS WHEREABOUTS ARE
KNOWN, HE IS GIVEN NOTICE OF THE
PROCEEDINGS BY REGISTERED OR CERTIFIED
MAIL TO HIS LAST KNOWN ADDRESS AND FAILS
TO OBJECT TO THE PROCEEDING WITH TWENTY-
ONE DAYS OF THE MAILING OF THE NOTICE
(Section 63.1-219.40.1a);OR

▣ THE PUTATIVE BIRTH FATHER NAMED BY THE
BIRTH MOTHER DENIES UNDER OATH AND IN

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WRITING PATERNITY OF THE CHILD (Section
63.1-219.40.2).

4.7.3.9 WHEN THE CONSENT OF ONE PARENT HAS BEEN OBTAINED, THE CONSENT OF THE OTHER PARENT(S) MAY BE WAIVED IF THE COURT DETERMINES THAT CONSENT IS BEING WITHHELD CONTRARY TO THE BEST INTEREST OF THE CHILD OR IS UNOBTAINABLE (Section 63.1-219.11):

- ▶ TWENTY-ONE DAYS AFTER PERSONAL SERVICE OF NOTICE OF THE PETITION FOR ADOPTION (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); OR
- ▶ IF PERSONAL SERVICE IS UNOBTAINABLE, TEN DAYS AFTER THE COMPLETION OF THE EXECUTION OF AN ORDER OF PUBLICATION AGAINST THE PARTY OR PARTIES WHOSE CONSENT IS REQUIRED; OR
- ▶ IF THE JUDGE CERTIFIES ON THE RECORD THAT THE IDENTITY OF ANY PERSON WHOSE CONSENT IS REQUIRED IS NOT REASONABLY ASCERTAINABLE.

4.7.3.10 NO CONSENT SHALL BE REQUIRED FROM THE BIRTH FATHER OF A CHILD PLACED FOR ADOPTION THROUGH A PARENTAL PLACEMENT WHEN SUCH FATHER IS CONVICTED OF RAPE OR INCEST AND THE CHILD WAS CONCEIVED AS A RESULT OF SUCH VIOLATION, NOR SHALL THE BIRTH FATHER BE ENTITLED TO NOTICE OF ANY OF THE ADOPTION PROCEEDINGS (Section 63.1-219.40.7).

4.7.4 COMPLETE THE INVESTIGATION

NOTE: IN A PARENTAL PLACEMENT WHERE ALL THE REQUIREMENTS OF CHAPTER 10.2, ARTICLE 3 HAVE BEEN MET, THE CIRCUIT COURT MAY DISPENSE WITH THE ORDER OF REFERENCE REQUESTING AN INVESTIGATION AND ENTER THE INTERLOCUTORY ORDER.

However, the circuit court may order a thorough investigation of the case. In situations where the circuit court enters an Order of Reference, Code Section 63.1-219.45C requires the following

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questions to be addressed in the agency's Report of Investigation:

- 4.7.4.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE CHILD;
- 4.7.4.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE CHILD IS;
- 4.7.4.3 WHY THE PARENTS, IF LIVING, DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE OF THE CHILD, AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;
- 4.7.4.4 WHETHER THE PARENTS HAVE ABANDONED THE CHILD OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;
- 4.7.4.5 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE AND IS LIVING IN THE HOME OF THE PETITIONER(S);
- 4.7.4.6 WHETHER THE CHILD IS A SUITABLE CHILD FOR ADOPTION BY THE PETITIONER(S); AND
- 4.7.4.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR IN THEIR BEHALF TO PERSONS OR AGENCIES WHICH HAVE ASSISTED THEM IN OBTAINING THE CHILD.
- 4.7.4.8 THE PHYSICAL AND MENTAL HISTORY OF BIRTH PARENTS, IF IT IS KNOWN.

4.7.5 Ensure that the Investigation required by Code Section 63.1-219.45C includes:

4.7.5.1 Interviews with:

☐ adoptive parents,

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- ▶ child, if of the age to participate,
 - ▶ all natural/legal parents to determine their attitude, physical and mental health history, and background information,
 - ▶ If an interview is not possible, contact must be made by mail or telephone, or through another agency.
 - ▶ When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.
 - ▶ The letter must be delivered to the addressee only and a return receipt requested.
 - ▶ references - contact in person, by mail or telephone, and
 - ▶ professional persons concerned with case;
- 4.7.5.2 home visits;
- 4.7.5.3 information on the adoptive parents' income in order to determine the fee assessed.
- 4.7.5.4 If unable to complete the investigation the court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.
 - ▶ A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

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- ▣ If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

4.7.5.5 If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the help of an out-of-state/country agency through the Interstate Compact on the Placement of Children.

4.7.6 Prepare the Report of Investigation required by Code Section 63.1-219.45C.

4.7.6.1 Use the format for the home study report shown in the Forms section with the following changes:

- ▣ Title the report "Report of Investigation";
- ▣ Direct the report to the appropriate circuit court and the appropriate circuit court judge;
- ▣ Put the Virginia adoption case number on the report and the court chancery number, if applicable;
- ▣ Cite the appropriate code section under which the agency was directed to do the report (Code Section 63.1-219.45);
- ▣ Insert a section on consent after the section on separation from birth parents;
 - ▣ State who consented to the adoption and the manner in which consent was executed, and,
 - ▣ If applicable, state whose consent was not required or can be waived and why.
- ▣ Under the recommendation section, specify what order is recommended (example, final order or interlocutory order) rather than simply stating

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whether or not the placement is a suitable placement for the child.

4.7.6.2 Prepare four copies of the report

- ▣ Send original to the court with Certificate of Service showing copy of report was sent to the Adoptions Unit. The Certificate of Service in the Forms section.
- ▣ Send one copy to the Adoptions Unit with a completed Commissioner's Confidential Report form (See the Forms section).
- ▣ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.
- ▣ Keep a copy in agency's file until final disposition.

4.7.6.3

If a letter of opposition to the adoption is received from the birth parent(s), the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

- ▣ The agency must submit any additional information requested by the Adoptions Unit.
- ▣ In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

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4.7.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a recommendation for abeyance.

Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. See the Forms section for the format for Supplementary Report.

4.7.8 Review Interlocutory Order

In this type of case, the court may enter an interlocutory order after the investigation is completed or omit the Interlocutory Order and enter a final order of adoption.

If an Interlocutory Order is entered, the agency must review and acknowledge to the court receipt of the interlocutory order. A copy of the acknowledgment should be sent to the Adoptions Unit. (See the Forms section for sample acknowledgment form).

4.7.9 Conduct the Supervisory Visits

If the Circuit Court enters an Interlocutory Order of Adoption, supervisory visits must be made (Section 63.1-219.19).

4.7.9.1 THE AGENCY MUST MAKE AT LEAST THREE VISITS TO THE CHILD WITHIN A SIX MONTH PERIOD FOLLOWING THE DATE THE INTERLOCUTORY ORDER IS ENTERED.

4.7.9.2 VISITS MUST BE SCHEDULED SO THAT NO LESS THAN 90 DAYS ELAPSE BETWEEN THE FIRST AND LAST VISIT.

4.7.9.3 THE VISITS MUST BE IN THE PRESENCE OF THE CHILD. ONE VISIT MUST BE IN THE HOME OF THE PETITIONERS WITH THE CHILD AND BOTH PETITIONERS PRESENT UNLESS THE PETITION WAS FILED BY A SINGLE PARENT OR ONE OF THE PETITIONERS IS NO LONGER RESIDING IN THE HOME.

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4.7.9.4 IF ONE OF THE PETITIONERS IS NO LONGER LIVING IN THE HOME, THE AGENCY MUST CONTACT THAT PETITIONER TO DETERMINE IF HE/SHE DESIRES TO REMAIN A PARTY TO THE PROCEEDINGS. THE REPORT TO COURT MUST INCLUDE THE RESULTS OF THE CONTACT.

4.7.9.5 If the petitioners move from Virginia prior to completion of the three visits, the agency must request the assistance in completing the visits from the new state of residence. This is done through the Interstate Compact on the Placement of Children.

4.7.10 Complete the Report of Visitation

4.7.10.1 The Report of Visitation is sent to the court within 15 days of the last visit.

4.7.10.2 THE FORMAT FOR THE REPORT OF VISITATION MUST BE THAT PRESCRIBED BY THE ADOPTIONS UNIT. (See the Forms section for a sample Report of Visitation Format).

4.7.10.3 Prepare four copies of the report.

☐ SEND ORIGINAL TO THE COURT WITH CERTIFICATE OF SERVICE (See the Forms section for this form).

☐ Send one copy to the Adoptions Unit.

☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.

☐ Keep one copy in agency's file until final action by the court.

4.7.10.4 The agency must submit any additional information requested by the Adoptions Unit.

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- 4.7.10.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

4.7.11 What Must Be Done Following Final Disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth.

- 4.7.11.1 AFTER THE EXPIRATION OF SIX MONTHS FROM THE DATE OF ENTRY OF THE FINAL ORDER FROM WHICH NO APPEAL HAS BEEN TAKEN, THE VALIDITY OF THE FINAL ORDER SHALL NOT BE SUBJECT TO ATTACK FOR ANY REASON INCLUDING BUT NOT LIMITED TO FRAUD, DURESS, FAILURE TO GIVE ANY REQUIRED NOTICE, FAILURE OF ANY PROCEDURAL REQUIREMENT, OR LACK OF JURISDICTION (Section 63.1-219.23).

4.7.11.2 Acknowledgment

- ☒ The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

4.7.12 Closing the Case

The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to the Adoptions Unit for Preservation in a Non-agency Adoption").

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4.8 RESPONSIBILITIES OF THE COMMISSIONER IN A PARENTAL PLACEMENT ADOPTION
AFTER THE ADOPTION PETITION IS FILED IN CIRCUIT COURT

The Adoptions Unit is the office which carries out the duties of the
Commissioner of Social Services in adoptions. These duties include:

4.8.1 ESTABLISHING A PERMANENT RECORD OF ALL ADOPTIONS PETITIONED AND
PROVIDING POST ADOPTION SERVICES TO ADULT ADOPTEEES AND ADOPTIVE
PARENTS SEEKING BACKGROUND INFORMATION ON THE BIOLOGICAL FAMILY
(Section 63.1-219.53.

4.8.2 MONITORING AND EVALUATING ADOPTION CASES AND SUBMITTING REPORTS TO
COURTS (Section 63.1-219.19); and

4.8.3 ARRANGING, THROUGH THE INTERSTATE COMPACT ON THE PLACEMENT OF
CHILDREN, FOR INVESTIGATION AND SUPERVISORY VISITS TO BE MADE WHEN
THE PETITIONERS MOVE PRIOR TO COMPLETING THE ADOPTION (Chapter
10.1, of the Code of Virginia).

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5. THE ADOPTIVE HOME STUDY

THE MANNER IN WHICH A FAMILY RECEIVES A CHILD FOR ADOPTION SHALL HAVE NO BEARING ON HOW THE FAMILY IS TO BE ASSESSED FOR PURPOSES OF ADOPTIVE PLACEMENT. THE CRITERIA OF CAPACITY FOR PARENTHOOD ARE THE SAME WHETHER THE CHILD WAS PLACED BY AN AGENCY, BY THE BIRTH PARENTS, OR BY A LEGAL GUARDIAN.

The adoptive home study is a process that involves the adoptive applicants in determining with the agency whether they can meet the needs of an adopted child. The home study should be carried out so that it brings about increased understanding of the adoption process and begins to prepare the applicants for adoption.

METHOD OF STUDY

5.1.1 Interviews

The home study consists of a series of interviews in which the adoptive applicant and the worker exchange factual information, discuss emotional factors involved in adoption, and come to recognize feelings and attitudes that may affect adoption.

- ☒ THERE SHALL BE A MINIMUM OF THREE INTERVIEWS. AT LEAST ONE INTERVIEW MUST OCCUR IN THE HOME OF THE ADOPTIVE FAMILY AND IN THE CASE OF MARRIED APPLICANTS, SHALL BE A JOINT INTERVIEW WITH HUSBAND AND WIFE.

5.1.2 IN A PARENTAL PLACEMENT, THE AGENCY SOCIAL WORKER SHALL MEET AT LEAST ONCE WITH THE BIRTH PARENT(S) AND PROSPECTIVE ADOPTIVE PARENTS SIMULTANEOUSLY.

5.1.3 ALL MEMBERS OF THE HOUSEHOLD SHALL BE INTERVIEWED AS PART OF THE HOME STUDY, INCLUDING CHILDREN WHEN APPROPRIATE.

REFERENCES

ADOPTIVE APPLICANTS SHALL PROVIDE AT LEAST TWO REFERENCES FROM INDIVIDUALS WHO ARE UNRELATED TO THEM.

5.3 CRIMINAL RECORDS

5.3.1 ADOPTIVE APPLICANTS, and all other adults residing in the home, SHALL IDENTIFY ANY CRIMINAL CONVICTIONS AND BE WILLING TO CONSENT TO A CRIMINAL RECORDS SEARCH;

5.3.2 ADOPTIVE APPLICANTS, and all other adults residing in the home,

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SHALL NOT HAVE BEEN CONVICTED OF A FELONY OR MISDEMEANOR WHICH JEOPARDIZES THE SAFETY OR PROPER CARE OF THE CHILD.

- ☐ The application for adoption must be denied if the adoptive applicants, or another adult residing in the home, has been convicted of criminal sexual assault, or taking indecent liberties with children.
- ☐ The agency shall exercise professional judgement in the approval or denial of applicants where convictions of other felonies and misdemeanors are found. The applicant's record shall document the reasons for the approval or denial. No denial shall be based solely on arrest information where no conviction has been made.

CHILD PROTECTIVE SERVICES AND DIVISION OF MOTOR VEHICLE RECORDS.

- 5.4.1 ADOPTIVE APPLICANTS, and all other adults in the household, SHALL BE WILLING TO CONSENT TO A SEARCH OF THE CHILD PROTECTIVE SERVICES CENTRAL REGISTRY.
- 5.4.2 If an agency believes it is needed, it may require consent to check Division of Motor Vehicle Records.

MEDICAL EXAMINATIONS

ADOPTIVE APPLICANTS SHALL PROVIDE A PHYSICIAN'S STATEMENT THAT REFLECTS THEIR CURRENT HEALTH AND THAT STATES THAT THEY ARE IN SATISFACTORY PHYSICAL AND MENTAL HEALTH TO ENABLE THEM TO PROVIDE ADEQUATE CARE TO THE CHILD.

5.6 APPROVAL PERIOD

A HOME STUDY CONDUCTED FOR PURPOSES OF PARENTAL PLACEMENTS SHALL BE APPROVED FOR A PERIOD OF 24 MONTHS FROM THE DATE OF COMPLETION OF THE STUDY.

5.7 ASSESSMENT OF THE FAMILY

A THOROUGH ASSESSMENT OF THE ADOPTIVE FAMILY IS CRITICAL IN EVALUATING WHETHER THE PLACEMENT IS CONTRARY TO THE BEST INTEREST OF THE CHILD. The following criteria should be used as guidelines in completing an adoptive home study:

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5.7.1 MOTIVATION TO ADOPTKey Considerations

- ▶ Degree to which both spouses want to adopt
- ▶ If infertility is one reason for adoption, how have parents dealt with loss of biological child
- ▶ Messages parents have learned about adoption from their (other) experiences.
- ▶ Degree to which other family members support adoption
- ▶ Perceived need adoption will meet for parents

Facts

- ▶▶ How long parents have considered adoption
- ▶▶ Reasons for adoption
- ▶▶ Who first spoke of adoption
- ▶▶ Reactions of spouse, children, significant others
- ▶▶ Fertility procedures undertaken
- ▶▶ Parents feelings about infertility
- ▶▶ How they've coped with the loss
- ▶▶ Prior experience with adoption
- ▶▶ Knowledge of adoption from other individuals/sources

Documentation

Notes from interviews with applicant that describe parents' reasons for adoption, their thoughts and feelings and perception of need adoption will meet and others' responses to adoption

5.7.2 FAMILY BACKGROUND AND FAMILY RELATIONSHIPSKey Considerations

- ▶ Emotional maturity, stability, physical and mental capabilities
- ▶ Ability to cope with problems, disappointments and frustrations
- ▶ Capability to accept and handle loss
- ▶ Nature and duration of family relationships

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- ▣ Capability to accept and handle loss
- ▣ Nature and duration of family relationships
- ▣ Ability to be flexible in their expectations of others, and in their role as parents
- ▣ Ability to respond to the needs of others
- ▣ Ability to accept normal hazards and risks
- ▣ Capability to take responsibility for one's own actions
- ▣ Ability to commit to another individual
- ▣ Capability to know one's strengths and limitations
- ▣ Extended family's ability to accept an adopted child as an equal member of the family, entitled to all benefits and responsibilities
- ▣ Role of religion in current family life

Facts

- ▣ Physical description
- ▣ Date, place of birth
- ▣ Information about parents and siblings (Names, ages, location, marital status, health status, education, current employment, ages of children of sibs, others living in parents' household)
- ▣ Current relationships with parents and sibs and children living outside the home
- ▣ Childhood experiences:
 - Parents' marital relationship
 - Parental roles each assumed
 - Disciplinary techniques
 - Communication
 - Interests/activities
 - Expression of affection
 - School experience
 - Family values
 - Religion

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- » Education
- » Employment History
- » Military service
- » Physical health
- » Mental health, counseling
- » Hobbies/interests/community involvement
- » Past losses and how they've coped
- » Problem-solving style
- » How individual's needs are met
- » How difficult situations have been handled
- » Amount of contact and degree of intimacy with nuclear and extended family member
- » How individual has changed over time and how change has occurred, include examples of how individuals has changed in response to needs of others
- » Words used to describe self, strengths, limitations
- » Individual's role/job in managing household
- » How both positive and negative feelings are expressed
- » Sources of support
- » Extended family's response to adoption in general and to the particular child
- » Language family members use about adoption
- » Religious denomination and degree of involvement in religious activities.

Documentation

Notes from interviews with applicant and other family members, autobiography or other similar written exercises. Statement from counselor, where applicable and physician's statements/medical form.

5.7.3 ADOPTION ISSUES

Key Considerations

- ▶ Ability to love, nurture and make a life-long commitment to a child not born to them
- ▶ Ability to accept the circumstances of a child's birth and birth family history
- ▶ Ability to demonstrate empathy for a child's birth parents
- ▶ Capacity to understand the life-long impact of adoption and to help child deal with the adoption issues of identity, loss, intimacy, control, and attachment
- ▶ Ability to understand the relationship between child development and adoption
- ▶ Capacity to develop a sense of entitlement to parent a particular child and to "claim" that child as an equal member of their family
- ▶ Capacity to accept professional and personal support
- ▶ Ability to lower expectations of child in response to child's needs
- ▶ Ability to maintain contact with significant others in child's life (including birth and former foster families and siblings)
- ▶ Willingness and ability to talk openly and comfortably about child's adoption with the family
- ▶ Understanding of search laws and willingness to offer on-going support to child if he/she decides to search
- ▶ Understanding of how attachments are formed and willingness to work at forming healthy attachments with a child even when they resist it
- ▶ Ability to understand and cope with health and behavioral issues of the child

Facts

- ▶ Types of long-term commitments family has made in the past which have endured over time, especially during high stress times

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- ☐ Knowledge of unique experiences and losses of adopted children and how they effect children's development and how children's developmental stage effects their response to trauma
- ☐ Type of life experiences that demonstrate understanding of why people make different choices than they do or are unable to make good choices and ability to show care and concern for people when they make those choices
- ☐ Words parents use to describe birth parents and why child placed for adoption
- ☐ Parents' response to core issues in adoption, how they impact them, child and birth parents and their ideas about how to deal with them
- ☐ Parents' perception of how they and child will change over time
- ☐ Parents' expectations, hopes and plans for child
- ☐ How parents define "family"
- ☐ Language parents use about adoption
- ☐ Examples of circumstances when parents have lowered expectations of others and still maintained close relationship with them
- ☐ How parents have changed over time and what provoked those changes
- ☐ Types of risks parents are willing to take
- ☐ Level and types of convictions parents have maintained with family and friends
- ☐ Parents' use of outside supports
- ☐ Knowledge of search laws and parents' feelings about search
- ☐ Examples of parents' abilities to delay gratifications
- ☐ Types of attachments parents have formed in the past
- ☐ Families' understanding of the risks associated with adoption
- ☐ How applicant plan to tell child about his/her adoption

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- ☞ What the parents do if they do not want the child in the home any more
- ☞ Examples of the types of people that the parents have given up on before
- ☞ Examples of what will make parents want to "give up" on their child

Documentation

Notes from interviews with applicant, autobiography of application or other similar written information.

5.7.4 QUALITY OF MARITAL AND OTHER RELATIONSHIPS

Key Considerations

- ☐ Capacity to develop and maintain long-term relationships
- ☐ Capacity of the relationship or the single parent to sustain high levels of stress and change
- ☐ Degree of openness in the family system
- ☐ Ability to solve problems and make decisions (jointly, if married)
- ☐ Degree to which communication is open, clear, sensitive to others' needs, reflective of true feelings, responsive to the situation, consistent with behavior and effective
- ☐ Presentation of an accurate "picture" of family relationships and interactions

Facts

- ☞ Relationships with friends (length, effort made to maintain contact, how much they accept and give help and support)
- ☞ Problem-solving and decision-making styles of parent(s)
- ☞ For single parents, who do they consider, related or non-related a part of their family system
- ☞ The length of marriage. How family talks about both negative and positive events and feelings

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- ☐ The ways in which affection and anger, are demonstrated. How conflict is resolved
- ☐ Pattern of communication and degree to which it meets the individuals' needs
- ☐ What are marital roles? Strength and weakness and how complement each other
- ☐ What makes these people stay married to each other. Previous marriages; when and why marriage ended; what learned from experience, what do they do when they spend time together?
- ☐ If been to marriage counseling, how long and what issues addressed

Documentation

Autobiography notes from interviews. Reference letters, marriage/divorce certificates (where applicable).

5.7.5 PARENTING SKILLS

Key Considerations

- ☐ Parenting style
- ☐ Relationship between how you were parented and how you will or do parent
- ☐ Applicant's understanding of physical, developmental, emotional need of children
- ☐ Applicant's understanding of the impact of adoption on children in the home and family routines
- ☐ Ability to develop and adjust realistic expectations of children
- ☐ Ability to separate their needs from child's needs
- ☐ Ability to communicate effectively
- ☐ Ability to assume responsibility for care, guidance, protection of children
- ☐ Willingness to try new parenting approaches in order to more effectively meet child's needs and manage behavior

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- ▣ Willingness to formulate a plan for child's care, if one or both parents are deceased
- ▣ Ability to feel satisfaction from allowing children to grow and develop in their own way and at their own pace
- ▣ Age of applicants in relation to the age of the child

Facts

- ▣ Experience with children
- ▣ Applicant's communication and problem-solving style
- ▣ Types of nurturing behaviors applicants demonstrate
- ▣ Applicant's views of children, anger and types of behaviors they are most/least comfortable with
- ▣ How family routine will be affected by adoption
- ▣ Applicant's plans for child, if deceased
- ▣ How family expresses affection and anger
- ▣ Knowledge of child development and changing needs and expectations of children over time
- ▣ Expectations of children
- ▣ Family routine
- ▣ Description of parenting style of family of origin (discipline, communication, values, experience of affection and anger, history of abuse/neglect)
- ▣ Criminal and child abuse/neglect history
- ▣ Description of children in home (age, developmental and emotional needs, perceived impact of adoption)
- ▣ How applicant identifies his/her needs, how they separate their needs from needs of others and how they get their needs met
- ▣ Self-esteem of applicant

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- ☐ Examples of how applicant is able to delay gratification
- ☐ Examples of how applicant has been open to new ideas and has been willing to try a new approach to problems they have been faced with
- ☐ Applicants plans for child care when they are not available to supervise (i.e. babysitters and day care)

Documentation

Autobiography or other similar exercises, notes from interviews, and reference letters.

5.7.6 HOME AND COMMUNITY

Key Considerations

- ☐ Health and safety of environment
- ☐ Space for play and privacy
- ☐ Accessability of community resources

Facts

- ☐ Description of house and neighborhood
- ☐ Fire arms, ammunition and other weapons are unloaded and kept in locked areas
- ☐ Description of family's proximity to community resources
- ☐ Safety devises, such as smoke alarms and fire extinguishers are apparent and are operable

Documentation

Notes regarding worker's observations

5.7.7 FINANCIAL CIRCUMSTANCES

Key Considerations

- ☐ Ability of applicant to meet the financial needs of adopted child and family

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Facts

- ☐ Financial resources of applicant
- ☐ How applicant manages those resources

Documentation

Financial statement, employer's verification

5.7.8 TYPE OF CHILD APPLICANT CAN PARENT

Key Considerations

- ☐ What applicant needs from a child and ability of child to meet that need
- ☐ Ability of applicant to meet special needs of children
- ☐ For Parental Placements adoption, applicant's ability to manage legal and emotional risks and maintain ongoing contact with birth parents
- ☐ For Inter-country adoption, applicant's ability to manage health risks and unknown background of child
- ☐ For Special Needs adoption, applicant's ability to manage special needs of the child

Facts

- ☐ Types of behaviors and background issues applicant is most/least comfortable with and able to handle
- ☐ Applicant's description of child(ren) they want to adopt
- ☐ Worker's assessment of the needs of the applicant and the degree to which those needs can be met by the type of child requested
- ☐ Worker's assessment of the needs of the child and the degree to which those needs can be met by the applicant

Documentation

Written summary of worker's assessment

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6. ADULT ADOPTIONS - An adult adoption is the adoption of any person who is 18 years of age or older at the time that the adoption petition is filed. Adult adoptions are governed by the provisions in Chapter 10.2, Article 5 of the Code of Virginia.

THE CIRCUIT COURT MAY, WITHOUT AN INVESTIGATION OR SUPERVISORY PERIOD, ENTER A FINAL ORDER IN THE ADOPTION OF AN ADULT IF CONSENT HAS BEEN OBTAINED FROM THE PERSON TO BE ADOPTED AND THE PERSON TO BE ADOPTED IS (Section 63.1-219.51):

- ☐ A STEPCCHILD PARENTED BY THE PETITIONER AT LEAST THREE MONTHS;
- ☐ AN ORPHANED NIECE OR NEPHEW WHO HAS LIVED IN THE HOME AT LEAST THREE MONTHS;
- ☐ A BIRTH CHILD; OR
- ☐ ANY ADULT WHO HAS RESIDED IN THE HOME AT LEAST THREE MONTHS BEFORE AGE 18.

THE CIRCUIT COURT MUST REQUIRE AN INVESTIGATION AND REPORT WHEN THE PETITION FOR ADOPTION IS FOR A PERSON 18 YEARS OF AGE OR OLDER WHEN THERE IS NO RELATIONSHIP BETWEEN THE ADOPTEE AND THE PETITIONER (Section 63.1-219.51).

- ☐ THE PERSON TO BE ADOPTED MUST BE AT LEAST FIFTEEN YEARS YOUNGER THAN THE PETITIONER;
- ☐ THE PETITIONER AND THE PERSON TO BE ADOPTED MUST HAVE KNOWN EACH OTHER FOR AT LEAST FIVE YEARS PRIOR TO THE FILING OF THE PETITION FOR ADOPTION; AND
- ☐ THE PETITIONER AND THE PERSON TO BE ADOPTED MUST HAVE BEEN RESIDENTS OF VIRGINIA DURING THE FIVE YEAR PERIOD WHEN THEY KNEW EACH OTHER.

THE CIRCUIT COURT MAY ALSO, IN ITS DISCRETION, REQUIRE AN INVESTIGATION IN ANY ADULT ADOPTION.

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6.1 RESPONSIBILITIES OF THE AGENCY IN ADULT ADOPTIONS

When the circuit court requires an investigation, the agency must:

6.1.1 OPEN THE CASE

6.1.1.1 SET UP A CASE RECORD

A case record should contain the following documents:

- Service application (or court order);
- all court documents;
- Report of Investigation, if applicable;
- Report of Visitation, if applicable;
- all correspondence;
- narrative

6.1.2 REVIEW THE PETITION AND ORDER OF REFERENCE

The Petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with an adult.

The Order of Reference is an order from the court directing an agency to make an investigation and report.

6.1.2.1 The petition and order of reference must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) resides and the case has been referred to the proper agency. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL, IF ANY (Section 63.1-219.9).

6.1.2.2 If an order of reference is entered in one of the situations where an investigation is not required, the attorney should be contacted to make certain that he is aware the court may enter a final order without an

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investigation. If the order of reference is not rescinded, the agency is responsible for making the investigation and report.
(See pages 6.4 - 6.7).

6.1.2.4 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or if it appears to be in the best interest of the person being adopted for another agency to make the investigation:

☐ the agency is to request that the court enter an amended order referring the investigation to the agency in the location where the petitioner has taken up new residence.

☐ If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.

6.1.2.5 THE ORDER OF REFERENCE MUST BE ACKNOWLEDGED TO THE COURT WITH A COPY TO THE ADOPTIONS UNIT. THE ACKNOWLEDGMENT MUST SHOW THE DATE OF RECEIPT OF THE ORDER AND THE NAME OF THE AGENCY (Section 63.1-219.51). The acknowledgment is in the Forms section.

6.1.3 REVIEW OF THE CONSENTS

The agency does not have any responsibility for obtaining written consent. The agency is responsible for reviewing the consent to determine if:

6.1.3.1 VALID CONSENT HAS BEEN OBTAINED FROM THE PERSON BEING ADOPTED (Section 63.1-219.50(b)).

☐ CONSENT DOES NOT HAVE TO BE OBTAINED FROM EITHER BIRTH PARENT(Section 63.1-219.50(a));

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6.1.3.2 CONSENT HAS BEEN PROPERLY EXECUTED. THE CONSENT MUST BE SIGNED, DATED, AND NOTARIZED AND MUST IDENTIFY THE PERSON BEING ADOPTED AND THE PETITIONER(S) BY NAME (Sections 63.1-219.10A and 16.1-262).

6.1.4 INQUIRIES MADE DURING THE INVESTIGATION

In those cases in which an investigation must be made, the REPORT TO THE COURT MUST BE MADE WITHIN NINETY DAYS AFTER THE COPY OF THE PETITION IS FORWARDED (Sections 63.1-219.50 and 63.1-219.35).

The Code requires the following questions be answered (Section 63.1-219.51C):

6.1.4.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE PERSON TO BE ADOPTED;

6.1.4.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE PERSON TO BE ADOPTED IS;

6.1.4.3 WHY THE BIRTH PARENTS OF THE PERSON TO BE ADOPTED DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE FOR THE PERSON TO BE ADOPTED AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;

6.1.4.4 WHETHER THE PARENTS HAS ABANDONED THE PERSON TO BE ADOPTED OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;

6.1.4.5 THE CIRCUMSTANCES UNDER WHICH THE PERSON TO BE ADOPTED CAME TO LIVE AND IS LIVING IN THE HOME OF THE PETITIONER(S);

6.1.4.6 WHETHER THE PERSON TO BE ADOPTED IS A SUITABLE PERSON FOR ADOPTION BY THE PETITIONER(S); AND

6.1.4.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR IN THEIR BEHALF, IF APPROPRIATE.

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6.1.4.8 RELEVANT PHYSICAL AND MENTAL HISTORY OF THE BIRTH PARENTS, IF KNOWN TO THE PERSON MAKING THE REPORT.

- ☐ An investigation is not necessary to report the physical and mental history of the birth parents.
- ☐ This information is reported only if it is known to the agency.

6.1.5 THE INVESTIGATION INCLUDES:

6.1.5.1 Interviews with:

- ☐ adoptive parents,
- ☐ the person being adopted,
- ☐ references - contact in person, by mail or telephone, and
- ☐ professional persons involved with either the petitioner(s) or person to be adopted;

6.1.5.2 home visit;

6.1.5.3 medical statements on the adoptee and adoptive parents; and

6.1.5.4 information on the adoptive parents' income in order to determine the fee assessed.

6.1.5.5 If unable to complete the investigation:

- ☐ The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 90 days.

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- ▣ A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.
- ▣ If the petitioner(s) cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

6.1.6 PREPARE THE REPORT OF INVESTIGATION

6.1.6.1 The format of the report must be that prescribed by the Adoptions Unit. The Report of Investigation Format and Checklist in the Forms section outlines information to be included in the report.

- ▣ For purposes of confidentiality, the report must not contain identifying information on the biological family.
- ▣ THE REPORT MUST CONTAIN A RECOMMENDATION AS TO THE ACTION TO BE TAKEN BY THE COURT (Section 63.1-219.51C).

6.1.6.2 Prepare four copies of the report

- ▣ Send original to the court with Certificate of Service showing copy of report was sent to the Adoptions Unit. The Certificate of Service is in the Forms section.
- ▣ Send one copy to the Adoptions Unit with a completed Commissioner's Confidential Reports form found in the Forms section.
- ▣ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case

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placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

- ☐ Keep a copy in agency's file until final disposition.

6.1.6.3 The agency must submit any additional information requested by the Adoptions Unit. In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid.

- ☐ A RECEIPT MUST BE PROVIDED TO THE COURT BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES WHICH COMPLETED THE INVESTIGATION AND COURT REPORT TO PROVIDE PROOF OF PAYMENT OF THE FEE (Section 63.1-219.55).

6.1.7 A SUPPLEMENTARY REPORT

6.1.7.1 Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for abeyance.

6.1.7.2 Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. See format for Supplementary Report in the Forms section.

6.1.8 WHAT MUST BE DONE FOLLOWING ENTRY OF AN INTERLOCUTORY ORDER, IF THE COURT IN ITS DISCRETION DECIDES TO ENTER THE ORDER.

6.1.8.1 Conduct Supervisory Visits (Section 63.1-219.19)

- ☐ THE AGENCY MUST MAKE AT LEAST THREE VISITS WITHIN A SIX MONTH PERIOD FOLLOWING THE DATE THE INTERLOCUTORY ORDER IS ENTERED.

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- ☞ THE VISITS MUST BE IN THE PRESENCE OF THE ADOPTED PERSON.
- ☞ ONE VISIT MUST BE IN THE HOME OF THE PETITIONER(S) WITH THE ADOPTIVE PERSON AND BOTH PETITIONERS PRESENT UNLESS ONE OF THE PETITIONERS IS NO LONGER RESIDING IN THE HOME.
- ☞ VISITS MUST BE SCHEDULED SO THAT AT LEAST 90 DAYS ELAPSE BETWEEN THE FIRST AND LAST VISIT.
- ☞ If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to court must include the results of the contact.
- ☞ If the petitioner(s) moves from Virginia prior to completion of the three visits, the agency must request assistance from an agency in the new state of residence in completing the visits.
- ☞ Since this type of adoption does not involve the placement of a child across state lines, the Interstate Compact on the Placement of Children does not apply.

2.8.9 REPORT OF VISITATION

- 2.8.9.1 The Report of Visitation is sent to the court within 15 days of the last visit.
- 2.8.9.2 The format for the Report of Visitation must be that prescribed by the Adoptions Unit. The Report of Visitation Format is in the Forms section.

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2.8.9.3 Prepare four copies of the report.

- ☐ Send original to the court with Certificate of Service shown in the Forms section.
- ☐ Send one copy to the Adoptions Unit.
- ☐ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.
- ☐ Keep one copy in agency's file until final action by the court.

2.8.9.4 The agency must submit any additional information requested by the Adoptions Unit.

2.8.9.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid.

- ☐ PROOF OF PAYMENT OF THE FEE SHALL BE PROVIDED BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE COURT PRIOR TO THE ENTRY OF THE FINAL ORDER (Section 63.1-219.55).

6.1.8 WHAT MUST BE DONE FOLLOWING FINAL DISPOSITION

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A FINAL ORDER IS NOT SUBJECT TO ATTACK AFTER SIX MONTHS FROM THE DATE IT WAS ENTERED AND IS FINAL FOR ALL PURPOSES (Section 63.1-219.23).

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6.1.8.2 Acknowledgment and disposition of case material

- ▣ The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption.
The acknowledgment is in the Forms section.
- ▣ The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to Adoption Reports for Preservation in a Non-agency Adoption").

6.1.9 CLOSING THE CASE

The case should be closed when the final order of adoption is received.

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6.2 RESPONSIBILITIES OF THE ATTORNEY IN AN ADULT ADOPTION.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

6.2.1 Files the petition WHICH MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL, IF ANY (Section 63.1-219.9),

6.2.2 Obtains required consents. IN AN ADULT ADOPTION, ONLY THE CONSENT OF THE PERSON TO BE ADOPTED IS REQUIRED (Section 63.1-219.50(a)).

6.2.3 Prepares appropriate orders,

6.2.4 Informs the petitioners of the legal requirements,

6.2.5 Assists the agency in obtaining necessary verifications, and

6.2.6 Assists the petitioner(s) in obtaining a new birth certificate for the person being adopted.

- ▣ THE ENTRY OF A FINAL ORDER OF ADOPTION PURSUANT TO THIS SECTION WHICH INCORPORATES A CHANGE OF NAME SHALL BE DEEMED TO MEET THE REQUIREMENT OF SECTION 8.01.217, WHICH GOVERNS HOW A PERSON'S NAME CAN BE CHANGED.

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6.3 RESPONSIBILITIES OF THE COURT

6.3.1 THE INVESTIGATIONS AND VISITATIONS SHALL NOT BE REQUIRED UNLESS THE COURT, IN ITS DISCRETION, SO REQUIRES (Section 63.1-219.51)

6.3.2 The clerk of the court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the Director of the Department of Social Services and to the Commissioner. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL, IF ANY (Section 63.1-219.9).

6.3.3 THE COURT DOES NOT TAKE ACTION ON THE AGENCY'S REPORT DURING THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER. THE COURT MAY TAKE ANY ACTION IT FINDS APPROPRIATE IF THE REPORT IS NOT SUBMITTED IN THE SPECIFIED TIME (Section 63.1-219.35). The court may:

6.3.3.1 enter a final order,

6.3.3.2 deny petition,

6.3.3.3 dismiss petition,

6.3.3.4 continue proceeding, or

6.3.3.5 schedule a hearing.

6.3.3.6 enter an interlocutory order (an interlocutory order is not required in an adult adoption and is seldom entered by the court).

6.3.4 WHEN NO ACTION IS TAKEN BY THE COURT FOR AT LEAST ONE YEAR FROM THE ENTRY OF THE LAST ORDER, THE CLERK OF COURT PLACES THE CASE ON THE DOCKET FOR REVIEW BY THE COURT (Section 63.1-219.21).

6.3.5 THE CLERK OF THE COURT SENDS TO THE AGENCY AND TO THE COMMISSIONER A COPY OF ANY ORDER ENTERED. UPON ENTRY OF A FINAL ORDER OR ANY OTHER FINAL DISPOSITION, THE CLERK FORWARDS ALL REPORTS SUBMITTED

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WITH THE FINAL ORDER TO THE COMMISSIONER FOR PRESERVATION (Section 63.1-219.20).

6.3.6 IF THE PETITION IS EXECUTED UNDER OATH, THE COURT MAY, WITHOUT AN INVESTIGATION, ENTER A FINAL ORDER IN THE ADOPTION OF AN ADULT IF THE PERSON TO BE ADOPTED IS (Section 63.1-219.51):

6.3.6.1 A STEPCHILD PARENTED BY THE PETITIONER AT LEAST THREE MONTHS;

6.3.6.2 AN ORPHANED NIECE OR NEPHEW WHO HAS LIVED IN THE HOME AT LEAST THREE MONTHS;

6.3.6.3 A BIRTH CHILD; OR

6.3.6.4 ANY ADULT WHO HAS RESIDED IN THE HOME AT LEAST THREE MONTHS BEFORE AGE 18.

6.3.7 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED. (Section 63.1-219.55)

6.3.8 After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a copy of the final order of adoption which incorporates a change of name.

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.4 RESPONSIBILITIES OF THE COMMISSIONER

The Adoptions Unit is the office which carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

6.4.1 ESTABLISHING A PERMANENT RECORD OF ALL ADOPTIONS PETITIONED AND PROVIDING POST ADOPTION SERVICES TO ADULT ADOPTEEES AND ADOPTIVE PARENTS SEEKING BACKGROUND INFORMATION ON THE BIOLOGICAL FAMILY (Section 63.1-219.53);

6.4.2 MONITORING AND EVALUATING ADOPTION CASES AND SUBMITTING REPORTS TO COURTS (Section 63.1-219.51).

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7.DISCLOSURE OF INFORMATION FROM CLOSED ADOPTIVE RECORDS

The statute allows adults adopted in Virginia to apply to the Commissioner of Social Services, rather than petitioning the circuit court, for identifying information on their birth families. A petition to the circuit court may be made by the adult adoptee in certain cases. These cases involve those situations where the Commissioner fails, within thirty days of receipt of the application, to designate a person or agency to attempt to locate the birth family, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report.

Access to closed records for the purpose of releasing non-identifying and identifying information is governed by Virginia CODE SECTION 63.1-219.53.

Section 63.1-219.54E, of the Code of Virginia, was revised in 1995 to allow the entire adoption record in parental placements to be open to the adoptive parents, the adoptee who is eighteen years of age or older, and a birth parent who executed a written consent to the adoption, IF THE CONSENT TO ADOPTION WAS EXECUTED ON OR AFTER JULY 1, 1994. For adoptions where the consent was executed before July 1, 1994, the following procedures apply.

**7.1 RELEASE OF NON-IDENTIFYING INFORMATION FROM A CLOSED ADOPTION RECORD
(Section 63.1-219.53)**

When a final order of adoption is entered, non-identifying information may be given to adoptive parents; licensed or authorized child-placing agencies providing services to the child and the adoptive parents; and the adoptee, upon reaching the age of 18.

7.1.1 OPEN THE CASE

7.1.1.1 When the request for information is forwarded from the Adoption Unit, a service application is completed.

7.1.1.2 SET UP CASE RECORDS

An adoption search case record should contain the following documents:

Service application (or court order);

all information forwarded by the state.

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7.1.1.3

PREPARE MATERIALS FOR RELEASE

- ☐ Prior to releasing information to the adoptee the record should be redacted to remove any information which would lead to the identification of any birth family member. This includes but is not limited to:
 - ☐ Names addresses and telephone numbers of all members of birth family.
 - ☐ School attended and date of graduation (if applicable).
 - ☐ Social Security numbers, military I.D. and other identifying numbers.
 - ☐ Names of attending physician, teacher, family friends, etc.
 - ☐ Any other information that could lead to the identity of the birth family.
- ☐ THE ADOPTEE SHALL NOT BE ALLOWED TO INSPECT THE HOME STUDY OF THE ADOPTIVE PARENTS UNLESS WRITTEN CONSENT HAS FIRST BEEN OBTAINED FROM THE ADOPTIVE PARENTS. This includes:
 - ☐ Reference letters on the adoptive parents.
 - ☐ Questionnaires completed on themselves by the adoptive parents.
 - ☐ Medical and psychologicals on the adoptive parents.
 - ☐ AREVA Family's Registration Form
 - ☐ Criminal record checks on the adoptive parents.
 - ☐ Child protective service checks on the adoptive parents.
 - ☐ The section of the report of Investigation or Home Study Report entitled Suitability to Adopt.

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- ☐ Any paragraph in the Report of visitation that deals solely with the adoptive parents.
- ☐ The portion of the Commissioner's Confidential Report from pertaining to the adoptive parents.

7.1.1.4 RELEASE OF INFORMATION TO ALLOWED INDIVIDUALS

The redacted information may be released to the allowed individuals when:

- ☐ The individual has presented a picture I.D. such as a driver's license.
- ☐ If it is not convenient for the adoptee to come to the local agency, the information should be sent to a licensed or approved social services agency or licensed human services practitioner (i.e., social worker, psychologist) or a minister in a location convenient to the requester, who will verify the identify of the individual and share the information with them.
- ☐ If there is concern that any information contained in the record could cause emotional trauma, then the record should be shared in a supervised setting with an adoption or mental health professional.

7.2 RELEASE OF IDENTIFYING INFORMATION (Section 63.1-219.53)

Identifying information or any information that would lead to the identity of the birth family can only be released to an adult adoptee whose adoption was finalized prior to July 1, 1994 under the following conditions:

7.2.1 The adoption was finalized in the State of Virginia.

7.2.2 The adoptee, 18 years of age or older, contacts the Virginia DSS to request that a search be initiated.

7.2.2.1 The adoptee needs to complete an "Adoptee Application for Disclosure" and return it to the Adoptions Unit at the central office of the Virginia Department of Social Services.

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7.3 RESPONSIBILITIES OF THE COMMISSIONER IN RELEASING IDENTIFYING INFORMATION

7.3.1 Upon receiving the Adoptee Application for Disclosure, THE COMMISSIONER SHALL DESIGNATE THE PERSON OR AGENCY WHICH MADE THE INVESTIGATION REQUIRED BY '63.1-219.35 OR '63.1-219.19 TO ATTEMPT TO LOCATE AND ADVISE THE APPLICABLE MEMBER(S) OF THE BIRTH FAMILY OF THE REQUEST FOR IDENTIFYING INFORMATION.

7.3.1.1 The Adoption Unit, acting for the Commissioner, will send the agency an Agency Letter of Appointment requesting the agency to conduct the search.

7.3.1.1 The agency has eight months unless otherwise determined by the Adoption Unit.

7.3.1.2 If the agency needs additional time, this will be granted if such need is documented in writing by the searching agency to the Adoption Unit.

7.3.2 Assist the agency in the search by providing technical assistance and case material from the adoption record(s).

7.3.3 UPON RECEIPT OF THE AGENCY'S REPORT OF FINDINGS TO THE ADOPTION UNIT, MAKE A DETERMINATION AS TO WHETHER GOOD CAUSE EXISTS FOR THE RELEASE OF IDENTIFYING INFORMATION.

7.3.3.1 The Adoption Unit will send the adoptee and searching agency a copy of the Final Disposition granting or denying the adoptee's Application for Disclosure.

7.3.3.2 The disclosure of identifying information will be granted when the birth family member(s) for whom the agency searched was located and consented to having his identity and whereabouts disclosed to the adoptee. However, the following extenuating circumstances are to be considered:

☐ If the birth parent is deceased and other family members who knew about the birth and adoption of the adoptee want their names and addresses disclosed, good cause may exist for identifying information on these family members to be given to the adoptee if the adoptee wishes this.

☐ If one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not have their identity disclosed. Exceptions are:

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- ☐ if the other birth parent of the adoptee and sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child (in such a case, the sibling(s) could be contacted by the searching agency and could give informed consent relative to the disclosure of his identity and whereabouts); or
- ☐ if the birth parent was deceased and the sibling was contacted by the designated person or agency doing the search because the record or other information indicated that the sibling(s) knew the circumstances surrounding the child's placement and adoption, and the sibling(s) consented to disclosure.
- ☐ If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he had contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.
- ☐ Advise the adoptee of his right to file a petition with the appropriate circuit court if the Commissioner fails to designate within thirty days a person or agency to do the search or if the Commissioner denies the Adoptee Application for Disclosure after receiving the designated person's or agency's report.

7.4 RESPONSIBILITIES OF THE DESIGNATED PERSON OR AGENCY CONDUCTING THE SEARCH.

The designated person or agency conducting the search shall, upon receiving an Agency Letter of Appointment:

7.4.1 OPEN THE CASE

When the Letter of Appointment is forwarded, a case should be opened.

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7.4.2 SET UP CASE RECORDS

A case record should contain the following documents:

7.4.2.1 service application (letter of appointment);

7.4.2.2 case information.

7.4.3 Attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information on the Adoptee Application for Disclosure. The birth family member(s) must be at least 18 years of age.

7.4.3.1 If the adoptee applies for identifying information on birth relatives other than his birth parent(s), the birth parent(s), unless deceased, must still be contacted and consent to having identifying information on themselves disclosed. An exception would be if the adoptee does not want identifying information on his birth parents but does want identifying information on birth siblings adopted by non-relatives.

7.4.3.2 If one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not be contacted. Exceptions are:

- ☐ If the other birth parent of the adoptee and the sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child; or
- ☐ If the birth parent is deceased and information in the record or other information indicates that the sibling(s) knew about the circumstances surrounding the child's placement and adoption.

7.4.3.3 If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he had contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.

7.4.3.4 In contacting relatives or persons who know the birth parent/sibling and can aid in the search, the searching agency is to use discretion. The confidential nature of the inquiry is not to be revealed unless it is clear from the record or other information that the contacted person knows the circumstances surrounding the child's placement and adoption.

7.4.4 Report to the Adoption Unit, or the court if applicable, the results of the attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.

7.4.4.1 The agency's report shall be in the format prescribed in the Forms section and shall not include identifying information on the birth family. No identifying information is to be disclosed to the adoptee, the birth family, or any attorney representing the parties without proper authorization from the Adoption Unit or the court.

7.4.4.2 Resources used to locate the birth family member(s) should be fully documented in the agency's report in those cases where agency efforts were unsuccessful

7.4.4.3 If the birth family member(s) about whom the adoptee wants identifying information can be located, the agency's report shall include updated non-identifying information about him. The report should also indicate his wishes regarding having his identity disclosed and being contacted by the adoptee.

7.4.4.4 The agency's report shall include a recommendation regarding disclosure based on their findings. If the agency recommends that identifying information be disclosed, the agency may wish to offer its services as an intermediary or suggest some other agency or person be appointed.

7.4.4.5 If there is a fee, the agency's report shall include a statement indicating the amount of the fee assessed and whether or not the fee has been paid. The Adoption Unit cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.

7.4.4.6 If the agency needs additional time to conduct the search, the agency shall document this need in writing to the Adoption Unit. The agency shall inform the adoptee of the need for additional time and obtain the adoptee's written consent for an extension. The agency shall inform the Adoption Unit in writing that the adoptee has agreed to the extension.

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7.4.4.7 If disclosure of identifying information is granted by the Adoption Unit, the searching agency is responsible for providing the identifying information to the adoptee.

7.4.5 Charge a fee for services (Section 63.1-219.55)

The Code of Virginia allows fees to be assessed for adoption searches. To determine the amount of fee to be charged, see Section 9 of the chapter.

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8. OTHER COURT ORDERED SERVICES

The court may direct the local department of welfare/social services to PROVIDE SUPERVISED VISITATION OR MEDIATION SERVICES or to conduct an investigation pursuant to §16.1-273 in adjudicating matters involving a child whose custody, visitation, or support is in controversy or requires determination.

8.1 GUIDELINES FOR CUSTODY INVESTIGATIONS (§16.1-273)

These guidelines for child custody investigations are jointly issued by the State Board of Social Services and the State Board of Youth and Family Services pursuant to Senate Bill 88 of the 1994 session of the Virginia General Assembly.

These guidelines set forth the basic assumptions and describe the preferred practices to be followed in conducting child custody investigations for Juvenile and Circuit Courts in the Commonwealth of Virginia. Sample forms are also provided for local units to consider using in their investigations.

In issuing these guidelines, the State Boards recognize that child custody investigations must always be conducted subject to the specific order of the court. The Boards further recognize that differing circumstances may sometimes warrant actions that differ from the preferred practices described in these guidelines. In such cases, the investigator and the investigator's supervisor should be prepared to justify the chosen alternative.

1.1 PURPOSE:

The goal of the custody investigation is to help the court determine the living and visitation arrangement that will enable the child to establish a meaningful relationship with both parents or the parties in the custody dispute.

8.1.2 DEFINITIONS:

"Custody" means a designation of legal and physical control of a child.

"Investigation" means a process of gathering and assessing information relative to the best interest of the child.

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"Parties" means any adult(s) having established interest in the child.

"Joint Legal Custody" means equal responsibility and authority regarding the child.

"Shared Parenting" means any mutual agreement developed by parents or caretakers to share responsibility and care of the child.

8.1.3 BASIC ASSUMPTIONS:

8.1.3.1 Custody investigations are guided by the principals of objectivity, competence, and thoroughness.

8.1.3.2 Whenever possible, custody investigations are limited to addressing issues that remain unresolved after the disputing parties have had the opportunity to resolve contested issues by mediation. Thus, the scope and depth of the custody investigation will vary depending on the degree to which the parties have been able to come to some agreement.

8.1.3.3 Information reported to court is always validated by supported documentation.

8.1.4 QUALIFICATIONS OF INVESTIGATORS:

To ensure the highest level of competence and accountability, custody investigators should have specific training, that is current, on issues related to the effect of custody disputes on children and appropriate techniques for interviewing children and families.

8.1.5 CONSISTENCY IN GATHERING INFORMATION:

When all parties reside in the same jurisdiction, one investigator should complete the assessment of both parents and the child. When one or more parties reside in another jurisdiction, the investigator should consult with professional staff in the other jurisdiction to ensure that all parties are asked for the same information in the same format.

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8.1.6 QUESTIONNAIRES:

- 8.1.6.1 If the investigator plans to use questionnaires to ensure that comparable information is obtained from the parents, the investigator should be aware that some parents may not understand or may be intimidated or put off by lengthy questionnaires, surveys, and forms. The investigator should use materials judiciously and should not rely on them as a primary source of information.
- 8.1.6.2 Whenever possible, the investigator should use the sample questionnaire that is provided with these guidelines. A shorter questionnaire may be used if it meets the needs of the court. (See the Forms section for sample questionnaire).
- 8.1.6.3 Any questionnaire used should be reevaluated periodically to ensure that issues addressed and language used are current and appropriate.
- 8.1.6.4 The investigator may ask the parents to complete a questionnaire in advance of a home visit to help both the parents and the investigator prepare for the visit.

8.1.7 AUTHORIZATION FOR RELEASE OF INFORMATION:

- 8.1.7.1 The parents or legal guardian should sign authorizations for release of information from schools, past or present counselors, substance abuse counselors, etc., as appropriate to the situation. A sample format is available. (See the Forms section for this format).
- 8.1.7.2 The parents or legal guardian should be told that the information obtained will be made available to the court and to counsel through the court. (Section 16.1-274, Code of Virginia)
- 8.1.7.3 When various sources are asked for information and the parents or legal guardian sign an authorization to release the information as presented, the investigator should inform the

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source that the information will be made available to the court. (Section 16.1-274, Code of Virginia)

8.1.8 INFORMATION FROM OBSERVATIONS:

1.8.1 The investigator should visit both parties' homes to determine if the environment is sanitary and safe; to observe how comfortable the child is in the home; and to observe the interaction between child and parent/caretaker and any other members of the household. A sample format for reporting observations is available.

8.1.8.2 When a child spends a large part of the time in a setting other than the home (for example, in school, day care or with a baby-sitter), the investigator should visit that setting to observe the child's level of comfort and interaction with others, etc.

8.1.9 CONDUCTING INTERVIEWS:

8.1.9.1 The investigator should always interview the involved parties face-to-face. A sample questionnaire is available for use in conducting the interview. The same questions should be asked to both parties regardless of the interview method utilized.

8.1.9.2 The investigator should personally interview those knowledgeable about the child's situation (such as teachers, school administrators, day care workers, baby sitters, neighbors, the child's physicians, and others, as applicable).

8.1.9.3 The investigator should interview the child alone to obtain the child's perception of each parent/party to the dispute, about daily events in the home, and, when applicable, the child's relationship with siblings and extended family members.

▣ Preferences of the child should be explored, but the child should never be asked to choose between parents or

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caretakers.

- ▣ Children's comments should be sent separately from the regular report to the court for the judge's review and discretionary use.

8.1.10 COURT AND DEPARTMENT RECORDS:

The investigator should review all records concerning the child and the family that are available through the court and the local unit at the Department of Youth and Family Services and the Department of Social Services.

8.1.11 RECORD CHECKS:

8.1.11.1 The investigator should secure a check of the Child Protective Services Registry and report the findings to the court.

8.1.11.2 The client should obtain a copy of his/her criminal records check through the police department and provide the investigator with a copy for inclusion in the report to court.

8.1.12 LETTERS OF REFERENCE:

Three letters of reference must be requested. The individuals providing the references must be made aware their responses will be attached to the report sent to the court.

8.1.13 INVESTIGATOR'S ASSESSMENT:

8.1.13.1 The investigator should offer an informed assessment of each parent's behavior as perceived through personal interviews, written records, and third party observations. Such assessment should consider each parent's:

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- ☐ level of cooperation with the investigation;
- ☐ stability in the work and home environment;
- ☐ style of interpersonal interactions including discipline; and
- ☐ ability to promote a positive relationship between the child and the other parent and family members.

8.1.13.2 Unless there is a formal psychological evaluation by an appropriately licensed practitioner, the investigator's report should not include a psychological assessment component.

8.1.14 REFERRAL FOR FURTHER ASSESSMENT:

When a custody investigation reveals evidence of substance abuse, mental health problems, dysfunctional family behaviors, or other problems that the investigator cannot immediately assess, the investigator should recommend to the court that the family, parent, or child be referred to an appropriate third party for expert assessment. The investigator should also recommend that the assessment of all parties be completed by the same provider.

8.1.15 PREPARING THE INFORMATION FOR THE COURT:

8.1.15.1 The format for the report to the court should be left up to the locality.

8.1.15.2 If the investigator has made use of questionnaires, checklists, etc. that are not part of the local format, the investigator should make these materials available, upon request, to the court.

8.1.15.3 Information included in the report should be comprehensive and easy to read.

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8.1.16

OPTIONS FOR RECOMMENDATIONS:

8.1.16.1

If the court requests an investigator to make a recommendation, the investigator should consider recommending joint legal custody absent any convincing evidence to the contrary. If joint legal custody is not recommended, the investigator should specifically state why this custody arrangement is not appropriate to the specific child and family situation. Other recommendations that may be made, as appropriate, are:

- ☐ Shared parenting.
- ☐ Sole custody with visitation.
- ☐ Sole custody with visitation denied.
- ☐ Sole custody with supervised visitation.
- ☐ Court determines custody.

8.1.16.2

Justification must be provided for any recommendation made.

8.1.17

FEES FOR SERVICES:

The Code of Virginia allows fees to be assessed for custody/visitation investigations. The amount of the fee is determined by the locality in accordance with Section 16.1-274, Code of Virginia. (See Section 9 for determining amount of fee).

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9. Fees For Court Ordered Services**9.1 Fees for Non-agency placement adoption services and home studies in surrogacy cases (Code Section 63.1-219.55)**

The adoption services for which the local agency shall charge a fee are non-agency placement adoption investigations and reports; parental placement home studies; visitations and reports; and home study reports in surrogacy cases.

The agency may recommend that all or part of the fee be waived in cases of hardship due to unusual circumstances.

Fees are based on actual costs of services, including direct and indirect costs taking into consideration family income and size.

9.1.1 Determining Direct Costs of Services

In determining direct costs, the local department of social services has the option of using the actual salary and benefits of the worker performing the services, and average of the salary and benefits, or the minimum salary and benefits.

9.1.1.1 If the actual salary and benefits of the worker performing the services is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging.

9.1.1.2 If some form of averaging is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed. The method of averaging would be to average the actual salaries and benefits of the workers performing the services.

Example:

If an agency had a Social Worker I earning \$15 an hour in salary and benefits, a Social Worker II also earning \$15 an hour, a Social Worker III

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earning \$16 an hour, and a Social Work Supervisor (who has a normal caseload) earning \$18 an hour, the agency would calculate an average of \$16 an hour.

- 9.1.1.3 If minimum salary and benefits is chosen, the first step of the compensation schedule for a social worker for the agency is used. The only recalculating would occur when the agency changes or updates the compensation schedule. This method is very simple and will insure that the salary charged will not exceed the actual salary and benefits of the worker performing the service.

9.1.2 Determining Indirect Costs of Services

Annually, the Bureau of Local Reimbursement of the State Department of Social Services will continue to calculate for each local agency an indirect cost factor to cover expenses other than the direct worker's salary and benefits (such as overhead costs).

- 9.1.2.1 Local agencies will record the time that a worker spends providing the service.
- 9.1.2.2 The time spent providing the service will be multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits: Refer to the section of on Determination of Direct Costs) and the indirect cost.

Example:

20 hours (time to provide services)

\$16 (worker's hourly salary and benefits)

Indirect cost factor of \$.50

Combined worker's hourly salary and benefits
plus indirect costs =
 $\$16 + 8 (\$16 \times \$.50) = \24

20 hours x \$24 = \$480 (to be adjusted for family size and income (see section 8.1.2))

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9.1.3 Income and Family Size

A fee schedule, based upon family size and income, shall be developed annually using the median income level for Virginia.

9.1.3.1 Determine the family size and income. For purposes of determining family size, include all persons for whom the petitioner/applicant and spouse are responsible.

9.1.3.2 Determine the petitioner's/applicant's percent of median income using the median income scale disseminated by the Generic Policy Unit. If income falls between two percentages, the lower figure shall be used to determine the amount of the fee assessed. The median income scale is revised annually.

9.1.3.3 Using the percentage of fee scale shown here, determine the fee to be assessed.

Families with 50% or less of median income shall not be charged a fee.

Families whose income falls at 60% of median income shall be charged 10% of the actual costs.

Families whose income falls at 70% of median income shall be charged 25% of the actual costs.

Families whose income falls at 80% of median income shall be charged 50% of the actual costs.

Families whose income falls at 90% of median income shall be charged 75% of the actual costs.

Families whose income falls at 100% of median income or above all be charged 100% of the actual costs.

Example:

The court orders the petitioner/applicant to pay

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a fee. The cost is calculated to be \$480. Using the median income scale, the fee is adjusted for family size and income. The worker determine that the petitioner's/applicant's annual income falls between 80% and 90% of the median. The worker uses the lower figure of 80%. Using the scale shown above, the worker determines that the fee should be assessed 50% of \$480 or \$240.

9.1.3.4 Local agencies shall include in reports to the court the amount of the fee assessed to the petitioners, if any. If a local agency finds an unusual circumstance that would affect a petitioner's ability to pay, it shall include this in its report to the court.

9.1.4 Collection and Reporting of Fees

9.1.4.1 The fee shall be collected by the appropriate department of social services. The amount of the fee collected should be included in the agency's report to court.

9.1.4.2 The local agency shall report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds shall be adjusted to reflect the state and federal share of income collected.

9.2 Fees For Custody Investigations, Mediation Services, and Supervised Visitation. (Code Section 16.1-274)

9.2.1 The court shall assess a fee in accordance with fee schedules established by the appropriate local board of social services.

9.2.2 The fee schedules shall include:

9.2.2.1 standards for determining the ability of the parties to pay; and

9.2.2.2 a scale of fees based on the parties income and family size.

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9.2.3 The fee charged shall not exceed the actual cost of services.

9.2.4 The method and medium for payment shall be determined by the local board of social services.

9.2.5 When a local department of social services is requested by another local department or court services unit in the Commonwealth or by a similar department or entity in another state to conduct an investigation involving a child's custody, visitation or support; or to provide mediation services or supervised visitation, the department may require fees prior to conducting the services.

9.3 Fees For Adoption Searches
(Code Section 63.1-219.53 and 63.1-219.54)

9.3.1 Fees are based on actual costs of services, including direct and indirect costs, and taking into consideration family size and income. (See Section 9.1 for determining direct and indirect costs and family size and income).

9.3.2 The local agency should use 20 hours as an estimated time for services and may charge that amount in advance.

9.3.3 If the search is completed in less than 20 hours, the agency must return the non-expended funds if the cost was paid in advance.

9.3.4 If the agency is not successful at the end of 20 hours, the agency has the following options.

9.3.4.1 the agency can inquire of the applicant if he wishes to continue the search and be charged for the additional hours (written permission from the applicant is mandatory); or

9.3.4.2 the agency can continue the search, but not charge the applicant more than the initial estimated fee which is based on 20 hours of work.

9.3.5 The agency has the authority (and responsibility) to waive part or all of the fee in unusual circumstances.

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10. Inter-country Adoptions - An inter-country adoption is when the petitions have adopted a child from a foreign country. In most inter-country adoptions, the adoptive parents are encouraged to re-adopt in Virginia.

Pre-adoptive Requirements

Prior to traveling to the foreign country to bring the child to Virginia, the prospective adoptive parents must meet Virginia's pre-adoptive requirements as well as certain requirements of the Department of Immigrations. Families requesting information on Virginia's pre-adoptive requirements and requirements of the Department of Immigrations should be referred to the Inter-country adoption specialist in the Interstate Compact on the Placement of Children Unit.

Adoptive Home Study

In most inter-country adoptions, the family will obtain an adoptive home study from a private agency. In these cases, the private agency that completed the home study will be responsible for the investigation and supervision required to obtain a final order of adoption in Virginia.

10.3 Responsibilities of the Local Department of Social Services in Inter-country adoptions.

There may be times when no Virginia agency was involved in assisting the family with pre-adoptive requirements. In these cases, the Circuit Court will refer the matter for investigation to the local department of social services in the county where the petitioners reside.

10.3.1 Case Opening

A case is opened when a petition for adoption is received from the Circuit Court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

10.3.1.1 Open the case.

10.3.1.2 Set up a case record

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- ☐ the case record should contain the following documents, if applicable:
 - ☐ all court orders,
 - ☐ all required documentation,
 - ☐ Report of Investigation,
 - ☐ all correspondence,
 - ☐ narrative.
- ☐ if two children are on the same petition, only one case is needed.

10.3.2 Review the Petition and Order of Reference

The petition for adoption is usually accompanied by an order of reference, which is an order from the court directing an agency to make an investigation and report.

10.3.2.1 The petition and order of reference must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) resides and the case has been referred to the proper agency. THE PETITION MUST BE SIGNED BY THE PETITIONER AND BY COUNSEL OF RECORD, IF ANY (Section 63.1-219.9).

10.3.2.2 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or it appears to be in the best interest of the child for another agency to make the investigation, the agency is to request that the court enter an amended order referring the investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.

10.3.2.3 The order of reference must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The

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acknowledgment form is in the Forms section.

10.3.3 Review of the Consents

The agency does not have any responsibility for obtaining written consent. The agency is responsible for reviewing the consent to determine if:

10.3.3.1 VALID CONSENT HAS BEEN OBTAINED FROM THE AGENCY OUTSIDE THE COMMONWEALTH THAT IS LICENSED OR OTHERWISE DULY AUTHORIZED TO PLACE CHILDREN FOR ADOPTION BY VIRTUE OF THE LAWS UNDER WHICH IT OPERATES (Section 63.1-219.10.C3).

10.3.3.2 THE CONSENT HAS BEEN NOTARIZED. (Section 63.1-219.10A)

10.3.4 Inquiries Made During the Investigation

The Code (Section 63.1-219.35) requires the following questions be answered:

10.3.4.1 WHETHER THE PETITIONER(S) IS FINANCIALLY ABLE, MORALLY SUITABLE, IN SATISFACTORY PHYSICAL AND MENTAL HEALTH, AND A PROPER PERSON(S) TO CARE FOR AND TRAIN THE CHILD;

10.3.4.2 WHAT THE PHYSICAL AND MENTAL CONDITION OF THE CHILD IS;

10.3.4.3 WHY THE PARENTS, IF LIVING, DESIRE TO BE RELIEVED OF THE RESPONSIBILITY FOR THE CUSTODY, CARE AND MAINTENANCE OF THE CHILD, AND WHAT THEIR ATTITUDE IS TOWARD THE PROPOSED ADOPTION;

10.3.4.4 WHETHER THE PARENTS HAVE ABANDONED THE CHILD OR ARE MORALLY UNFIT TO HAVE CUSTODY OVER HIM;

10.3.4.5 THE CIRCUMSTANCES UNDER WHICH THE CHILD CAME TO LIVE AND IS LIVING IN THE HOME OF THE PETITIONER(S);

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10.3.4.6 WHETHER THE CHILD IS A SUITABLE CHILD FOR
ADOPTION BY THE PETITIONER(S); AND

10.3.4.7 WHAT FEES HAVE BEEN PAID BY THE PETITIONERS OR
IN THEIR BEHALF TO PERSONS OR AGENCIES WHICH
HAVE ASSISTED THEM IN OBTAINING THE CHILD.

10.3.4.8 THE REPORT MUST INCLUDE THE PHYSICAL AND MENTAL
HISTORY OF BIRTH PARENTS, IF IT IS KNOWN.

10.3.5 The Investigation Includes:

10.3.5.1 Interviews with:

☐ adoptive parents,

☐ child, if of the age to participate,

10.3.5.2 home visits to describe for the court the
physical environment in which the child will
live, and to observe interactions between the
parent and child in a familiar environment.

10.3.5.3 information on the adoptive parents' income in
order to determine the fee assessed.

10.3.5.4 If unable to complete the investigation

☐ The court and the Adoptions Unit must be
notified if the investigation and report
are delayed and cannot be completed within
90 days.

☐ A report must be sent to the court
with a recommendation for abeyance.
The report must include the
reason(s) for the delay or inability
to complete the investigation and
the period of time needed to
complete the investigation.

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▣ If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

▣ If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the assistance of an out-of-state agency in completing the investigation.

10.3.6 Prepare the Report of Investigation

THE FORMAT OF THE REPORT MUST BE THAT PRESCRIBED BY THE ADOPTIONS UNIT. The Report of Investigation Format and Checklist in the Forms section outlines information to be included in the report.

The report must contain a recommendation as to the action to be taken by the court.

10.3.6.1 Prepare four copies of the report

▣ SEND ORIGINAL TO THE COURT WITH CERTIFICATE OF SERVICE SHOWING COPY OF REPORT WAS SENT TO THE ADOPTIONS UNIT (Section 42.1-219.49). The Certificate of Service form is in the Forms section.

▣ SEND ONE COPY TO THE ADOPTIONS UNIT WITH COMPLETED COMMISSIONER'S CONFIDENTIAL REPORT (See the Forms section for the CCR).

▣ Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

▣ Keep a copy in agency's file until final

disposition.

10.3.6.2 The agency must submit any additional information requested by the Adoptions Unit.

10.3.6.4 In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by the local department of social services which completed the investigation and court report to provide proof of payment of the fee.

10.3.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for abeyance. The format for a Supplementary Report is in the Forms section.

10.3.8 What Must Be Done Following Final Disposition

10.3.8.1 Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A FINAL ORDER IS NOT SUBJECT TO ATTACK FOR ANY REASON AFTER SIX MONTHS FROM THE DATE IT IS ENTERED AND IS FINAL FOR ALL PURPOSES (Section 63.1-219.23).

10.3.8.2 Acknowledgment and disposition of case material

▣ The agency must review and acknowledge receipt of the final order of adoption or

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any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment form is in the Forms section.

- ▣ The agency must purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the Adoptions Unit for preservation (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to Adoption Reports for Preservation in a Non-agency Adoption).

10.3.9 Closing The Case

The case should be closed when the final order of adoption is received.

10.4 RESPONSIBILITIES OF THE ATTORNEY

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- 10.4.1 files the petition, WHICH MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD (Section 63.1-219.9),
- 10.4.2 obtains required consents,
- 10.4.3 prepares appropriate orders,
- 10.4.4 informs the petitioners of the legal requirements,
- 10.4.5 assists the agency in obtaining necessary verifications, and
- 10.4.6 assists the petitioner(s) in obtaining a new birth certificate for the child.

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RESPONSIBILITIES OF THE COMMISSIONER

The Adoptions Unit carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 10.5.1 establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family; and
- 10.5.2 monitoring adoption cases and submitting reports to courts when necessary.

RESPONSIBILITIES OF THE CIRCUIT COURT

- 10.6.1 THE PETITION AND ALL EXHIBITS MUST BE FORWARDED TO THE LOCAL DIRECTOR OF SOCIAL SERVICES WHICH COMPLETED THE HOME STUDY OR PROVIDED SUPERVISION. IF NO VIRGINIA AGENCY PROVIDED SUCH SERVICES, THE PETITION AND ALL EXHIBITS SHALL BE FORWARDED TO THE LOCAL DIRECTOR OF SOCIAL SERVICES IN THE CITY OR COUNTY WHERE THE ADOPTIVE FAMILY RESIDES, OR RESIDED AT THE TIME OF FILING THE PETITION, OR HAD LEGAL RESIDENCE AT THE TIME OF THE FILING OF THE PETITION.
 - 10.6.1.1 The clerk of the circuit court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the Director of the Department of Social Services and to the Adoption Unit. THE PETITION MUST BE SIGNED BY THE PETITIONER AND COUNSEL OF RECORD, IF ANY (Section 63.1-219.9).
 - 10.6.1.2 THE COURT DOES NOT TAKE ACTION ON THE AGENCY'S REPORT DURING THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER (Section 63.1-219.49).
 - 10.6.1.3 THE COURT MAY TAKE ANY ACTION IT FINDS APPROPRIATE IF THE REPORT IS NOT SUBMITTED IN THE SPECIFIED TIME (Section 63.1-219.49B). The court may:

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- ☐ enter a final order,
- ☐ deny petition,
- ☐ dismiss petition,
- ☐ continue proceeding, or
- ☐ schedule a hearing.

10.6.2 THE COURT MAY DISPENSE WITH ENTRY OF THE INTERLOCUTORY ORDER WHEN (Section 63.1-219.17):

10.6.2.1 THE CHILD HAS BEEN LEGALLY ADOPTED ACCORDING TO THE LAWS OF A FOREIGN COUNTRY WITH WHICH THE UNITED STATES HAS DIPLOMATIC RELATIONS (Section 63.1-219.17.5):

☐ IF THE CIRCUIT COURT IS OF THE OPINION THAT THE ENTRY OF AN INTERLOCUTORY ORDER WOULD OTHERWISE BE PROPER; AND

☐ THE CHILD HAS RESIDED IN THE HOME OF THE PETITIONERS FOR:

☐ AT LEAST ONE YEAR IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, OR

☐ AT LEAST SIX MONTHS IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, HAS BEEN VISITED BY A REPRESENTATIVE OF THE LOCAL DEPARTMENT OF SOCIAL SERVICE THREE TIMES WITHIN SUCH SIX MONTH PERIOD WITH NO FEWER THAN NINETY DAYS BETWEEN THE FIRST AND LAST VISITS, AND THE THREE VISITS HAVE OCCURRED WITHIN EIGHT MONTHS IMMEDIATELY PRIOR TO THE FILING OF THE PETITION.

10.6.2.2 THE CHILD WAS PLACED INTO VIRGINIA FROM A FOREIGN COUNTRY IN ACCORDANCE WITH §63.1-207, AND IF (Section 63.1-219.17.6):

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▣ THE CHILD HAS RESIDED IN THE HOME OF THE PETITIONER FOR AT LEAST SIX MONTHS IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, HAS BEEN VISITED BY A REPRESENTATIVE OF THE LOCAL DEPARTMENT OF SOCIAL SERVICE THREE TIMES WITHIN SUCH SIX MONTH PERIOD WITH NO FEWER THAN NINETY DAYS BETWEEN THE FIRST AND LAST VISITS, AND THE THREE VISITS HAVE OCCURRED WITHIN EIGHT MONTHS IMMEDIATELY PRIOR TO THE FILING OF THE PETITION.

10.6.2.3 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.

10.6.2.4 The clerk of the court sends to the agency and to the Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Adoption Unit for preservation.

10.6.2.5 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. THE COURT SHALL NOT ENTER A FINAL ORDER OF ADOPTION UNTIL PROOF OF PAYMENT OF FEES HAS BEEN RECEIVED (CODE SECTION 63.1-219.55).

10.6.2.6 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

10.6.2.7 AFTER THE ENTRY OF A FINAL ORDER, THE CLERK OF COURT SENDS TO THE STATE DEPARTMENT OF HEALTH, BUREAU OF VITAL RECORDS AND HEALTH STATISTICS A

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

**NON-AGENCY PLACEMENT ADOPTION
AND OTHER COURT SERVICES**

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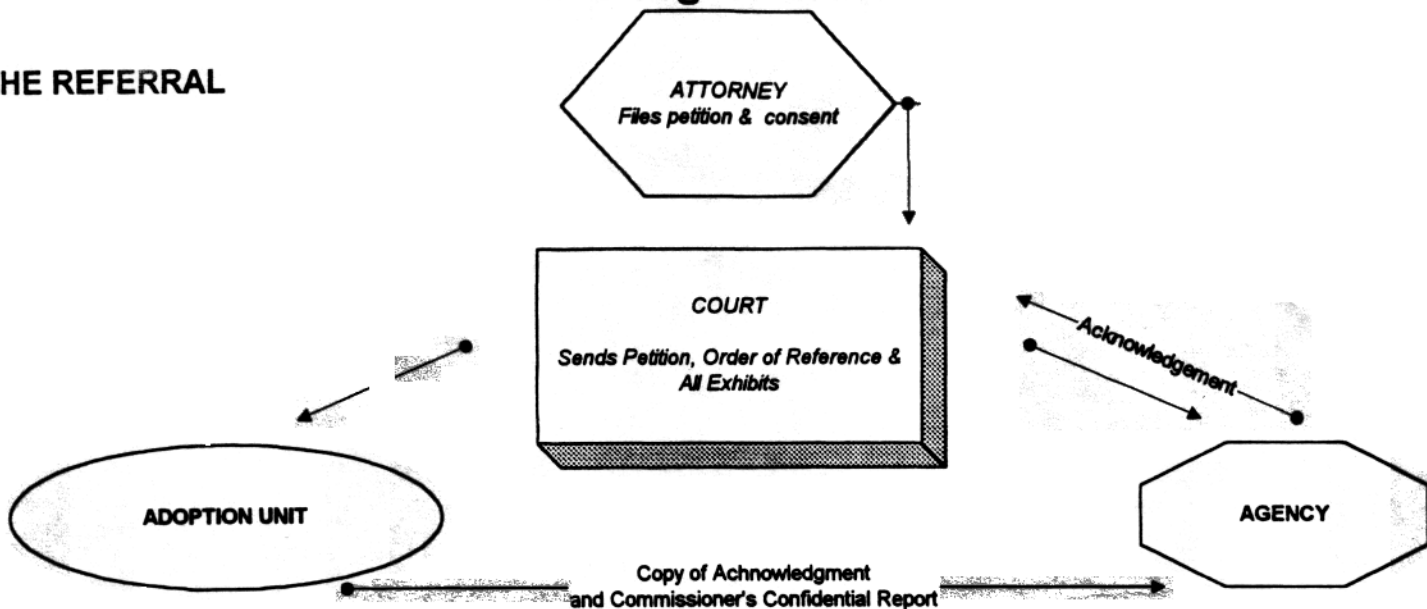
COMPLETED APPLICATION FOR A CERTIFIED COPY OF A
BIRTH RECORD, VS-6, WITH A CHECK FOR THE
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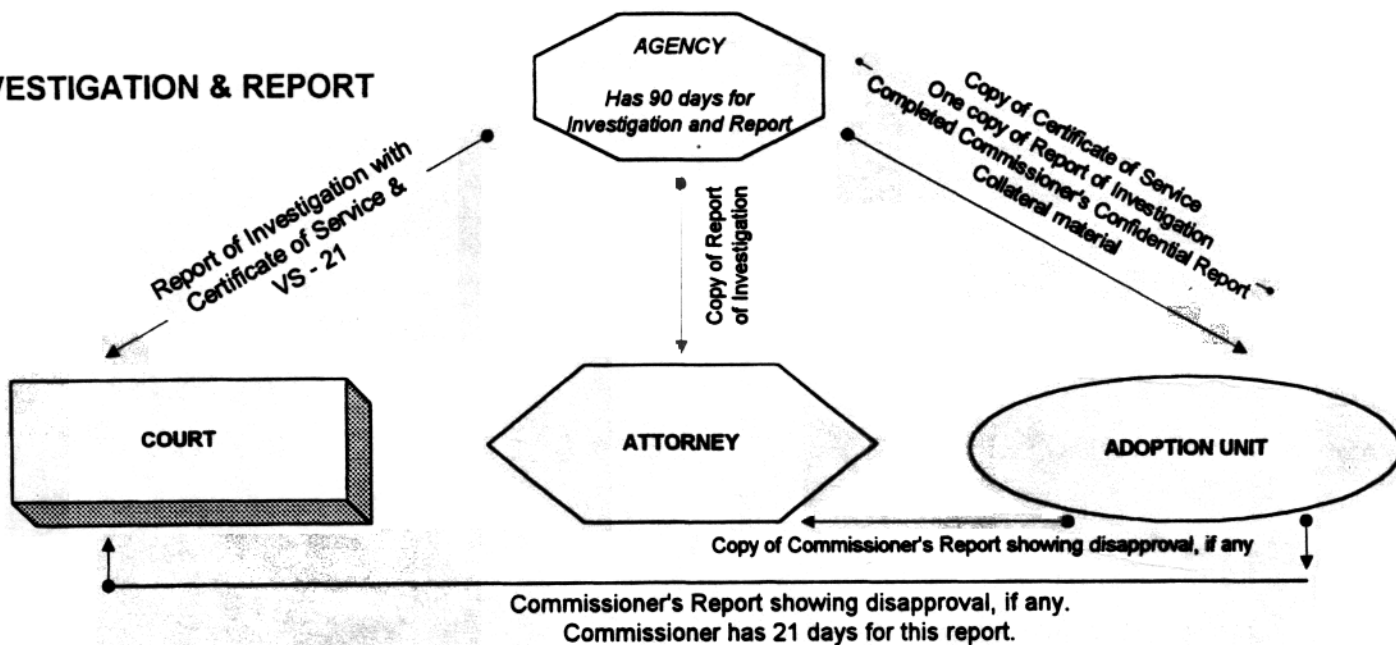
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The Legal Process

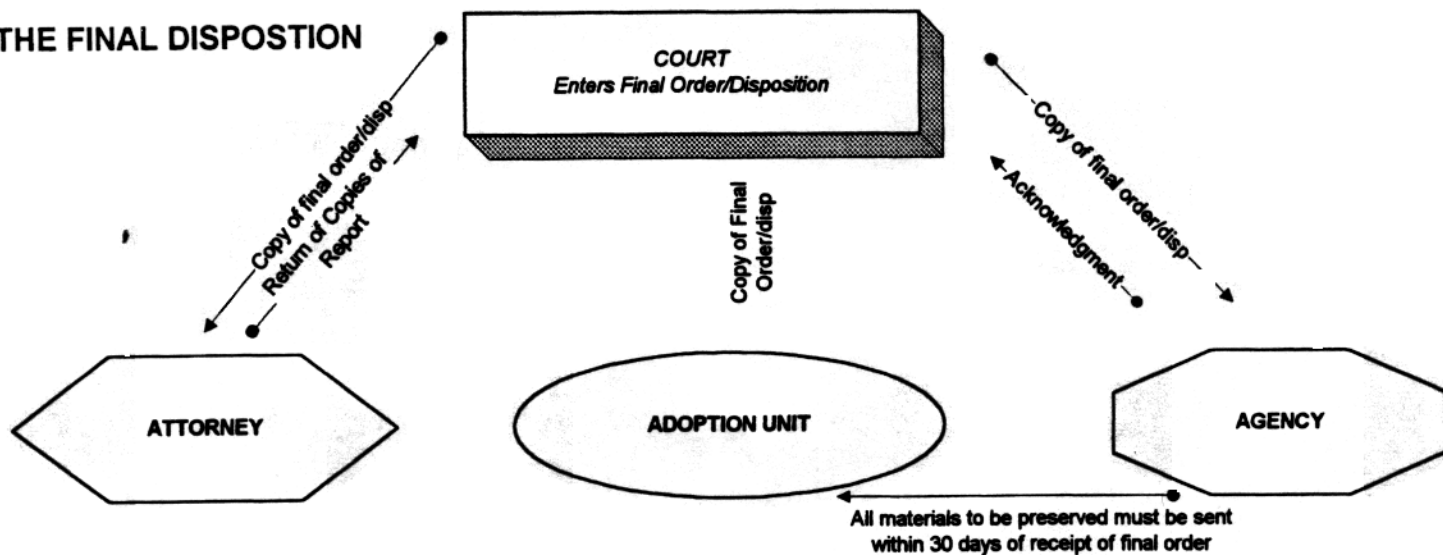
THE REFERRAL



INVESTIGATION & REPORT

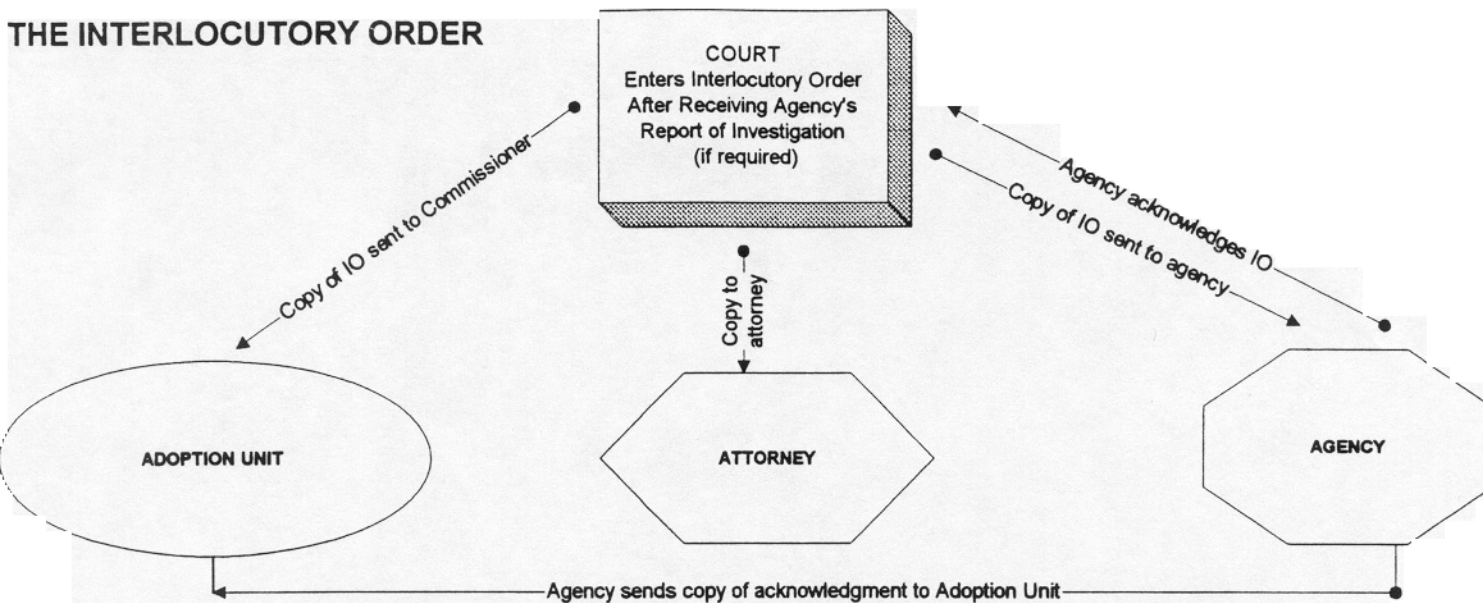


THE FINAL DISPOSITION

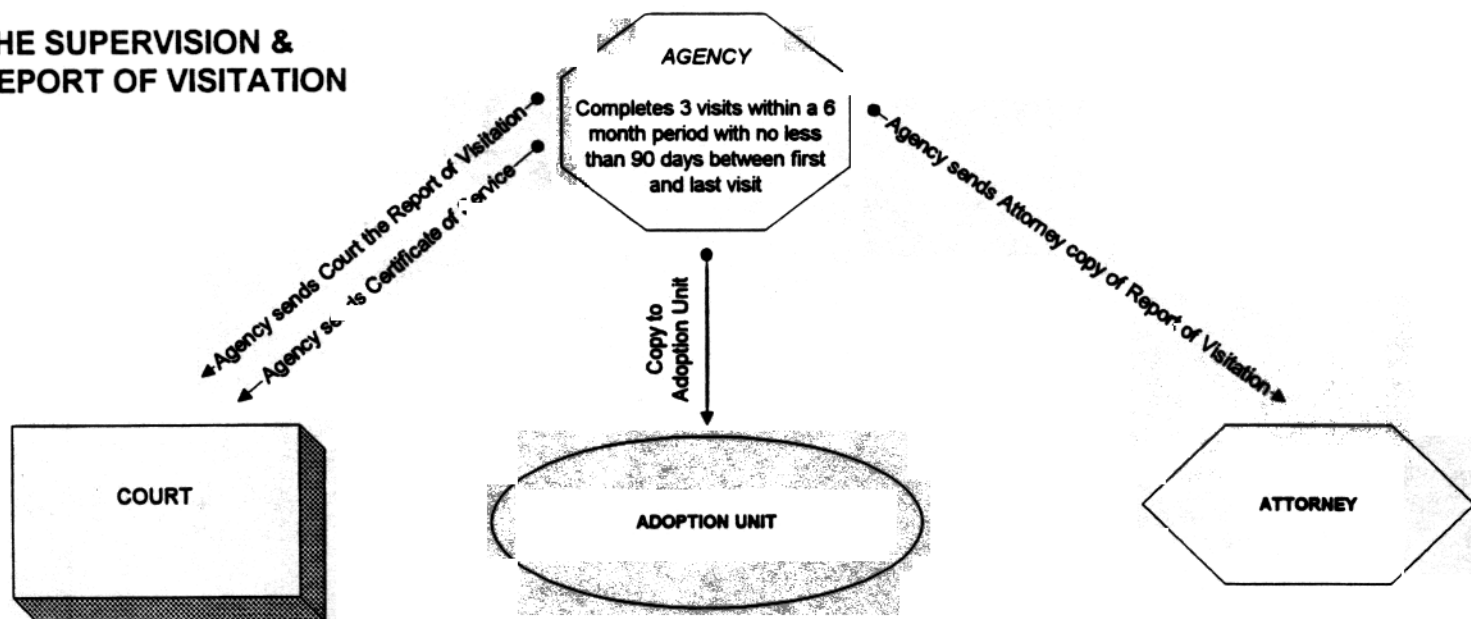


The Legal Process (Con't)

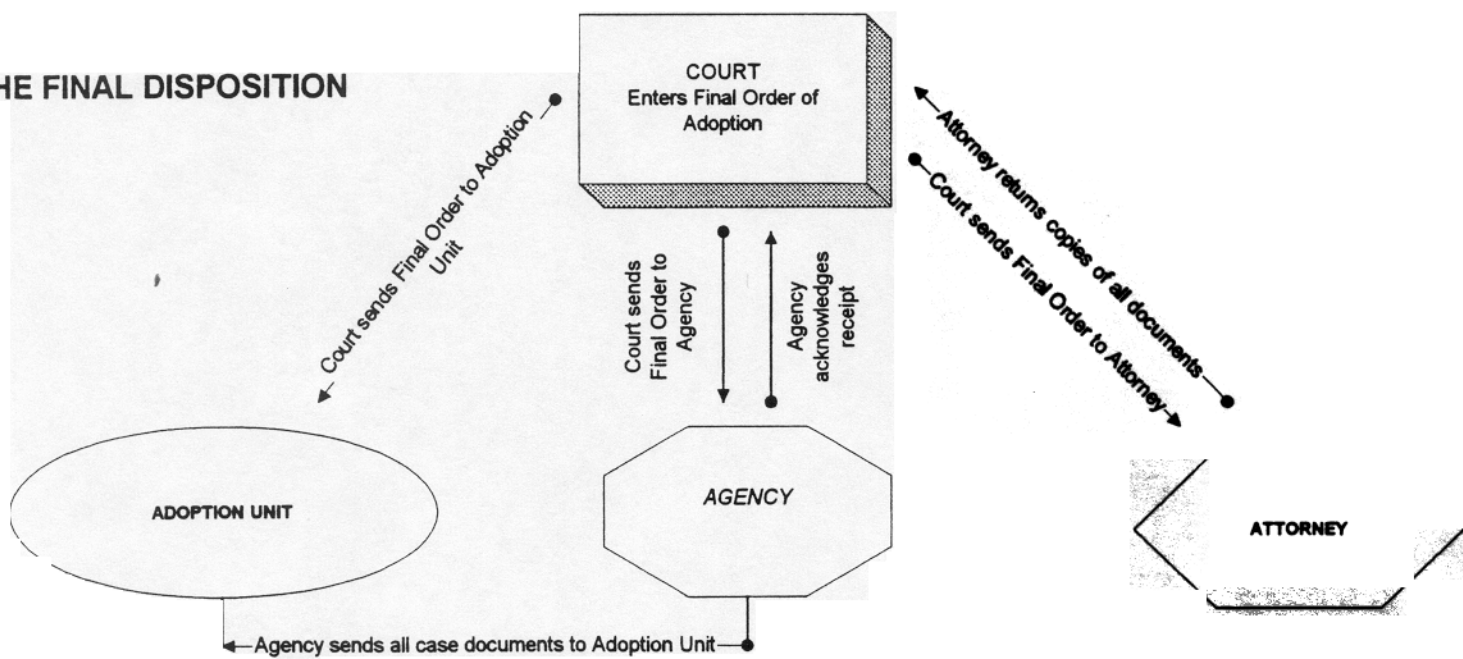
THE INTERLOCUTORY ORDER



THE SUPERVISION & REPORT OF VISITATION



THE FINAL DISPOSITION



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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
ACKNOWLEDGEMENTCLERK,
CIRCUIT COURT OF

DATE

ENTER ALL INFORMATION BELOW WHEN KNOWN

RE: ADOPTION OF

PETITIONERS

AGENCY CASE NUMBER

VIRGINIA ADOPTION CASE NUMBER

CHANCERY NUMBER

THIS WILL ACKNOWLEDGE RECEIPT ON _____ (DATE) BY _____ (AGENCY / COMMISSIONER'S OFFICE) OF THE ITEMS MARKED BELOW:

☐ PETITION☐ CONSENT☐ ORDER OF REFERENCE TO _____☐ INTERLOCUTORY ORDER TO _____☐ FINAL ORDER ENTERED ON _____☐ OTHER _____

TO COURT AND ATTORNEY:

☐ IT APPEARS THIS ORDER WAS ENTERED BEFORE THE EXPIRATION OF THE 21 DAYS ALLOWED FOR REVIEW OF THE AGENCY'S REPORT BY THE COMMISSIONER.☐ THIS DOES NOT APPEAR TO BE A CASE WHERE THE INTERLOCUTORY ORDER CAN BE OMITTED IN ACCORDANCE WITH SECTION 63.1-229 OF THE CODE. PLEASE ENTER AN INTERLOCUTORY ORDER IN ACCORDANCE WITH SECTION 63.1-226 OF THE CODE.☐ IT APPEARS ADOPTION WOULD NOT BE THE PROPER PROCEDURE IN THIS CASE TO ESTABLISH LEGITIMACY / PATERNITY. THE VITAL STATISTICS LAWS OF THE STATE OF BIRTH WOULD BE APPLICABLE.☐ THIS CASE DOES NOT APPEAR TO MEET THE REQUIREMENTS OF SECTION 63.1-231 OF THE CODE WHICH DISPENSES WITH THE INVESTIGATION AND REPORT. PLEASE ENTER AN ORDER OF REFERENCE IN ACCORDANCE WITH SECTION 63.1-223 OF THE CODE.☐ THIS CASE APPEARS TO MEET THE REQUIREMENTS OF SECTION 63.1-231 OF THE CODE. IF THE COURT CONCURS, THE INVESTIGATION AND REPORT CAN BE DISPENSED WITH AND A FINAL ORDER ENTERED.☐ THE ORDER OF REFERENCE IS NOT IN COMPLIANCE WITH SECTION 63.1-223 OF THE CODE. PLEASE ENTER AN AMENDED ORDER REFERRING THE MATTER TO _____.☐ THE INTERLOCUTORY ORDER IS NOT IN COMPLIANCE WITH SECTION 63.1-228 OF THE CODE. PLEASE ENTER AN AMENDED ORDER DIRECTING THAT THE VISITS BE MADE BY _____.☐ TO COURT: PLEASE RETURN ALL REPORTS AS PROVIDED BY SECTION 63.1-236, CODE OF VIRGINIA.☐ TO AGENCY: PLEASE SEND ALL PERTINENT MATERIAL NOT PREVIOUSLY SUBMITTED TO THE CENTRAL OFFICE FOR PRESERVATION.☐ OTHER:

002-02-030/2

PLEASE USE THE LOCAL AGENCY CASE NUMBER AND THE VIRGINIA ADOPTION CASE NUMBER ON ALL CORRESPONDENCE.

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COMMISSIONER'S CONFIDENTIAL REPORT

(PLEASE TYPE OR PRINT)

DATE

TO: ADOPTION REPORTS UNIT DIVISION OF SOCIAL SERVICES

FROM:

RE: VIRGINIA ADOPTION CASE NO.

AGENCY CASE NO.

CHANCERY NO.

IN THE CIRCUIT COURT OF:

PETITIONERS				MALE				FEMALE			
FULL NAME											
CURRENT ADDRESS											
PRESENT MARRIAGE	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
PREVIOUS MARRIAGE	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
DIVORCE (1)	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
PREVIOUS MARRIAGE	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
DIVORCE (2)	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
DEATH OF FORMER SPOUSE	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	DATE	PLACE	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED		
AGE	PHYSICAL HEALTH			AGE	PHYSICAL HEALTH						
RACE	MENTAL HEALTH			RACE	MENTAL HEALTH						

(GIVE FULL FINANCIAL STATUS IN NARRATIVE: INCOME FROM ALL SOURCES, SAVINGS, INVESTMENTS, AND DEBTS, INCLUDING THE PLAN FOR THEIR DEPRECIATION)

CHILD			
NAME ON BIRTH CERTIFICATE		<input type="checkbox"/> LEGITIMATE <input type="checkbox"/> ILLEGITIMATE	
DATE OF BIRTH	PLACE OF BIRTH	<input type="checkbox"/> VERIFIED <input type="checkbox"/> NOT VERIFIED	PLACED BY
BIRTH CERTIFICATE NO.	RACE	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	DATE PLACED
CHILD'S RELATIONSHIP TO MALE PETITIONER		CHILD'S RELATIONSHIP TO FEMALE PETITIONER	
NAME OF BIOLOGICAL FATHER	SOCIAL SECURITY NO.	NAME OF LEGAL FATHER (IF APPLICABLE)	SOCIAL SECURITY NO.
LAST KNOWN ADDRESS		LAST KNOWN ADDRESS	
CITY, STATE, ZIP		CITY, STATE, ZIP	
NAME OF MOTHER	SOCIAL SECURITY NO.	MOTHER'S MARITAL STATUS AT TIME OF CHILD'S BIRTH	
LAST KNOWN ADDRESS		CITY, STATE, ZIP	
MOTHER'S PHYSICAL HEALTH		MOTHER'S MENTAL HEALTH	
BIOLOGICAL FATHERS' PHYSICAL HEALTH		BIOLOGICAL FATHERS' MENTAL HEALTH	
PETITIONER'S ATTORNEY			
NAME		ADDRESS	
CITY, STATE, ZIP			
ANY ADDITIONAL REMARKS			

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

CERTIFICATE OF SERVICE

CLERK, CIRCUIT COURT OF

ENTER ALL INFORMATION BELOW WHEN KNOWN

RE: ADOPTION OF

PETITIONERS

AGENCY CASE NUMBER

VIRGINIA ADOPTION CASE NUMBER

COURT CASE NUMBER

I HEREBY CERTIFY THAT ON THE _____ DAY OF _____, 19____ IN THE COUNTY/CITY OF _____

VIRGINIA, A TRUE COPY OF THE ATTACHED REPORT WAS DELIVERED/MAILED TO THE COMMISSIONER OF SOCIAL SERVICES IN ACCORDANCE WITH SECTION

☐ 63.1-223 ☐ 63.1-228 OF THE CODE OF VIRGINIA.☐ FEE ASSESSED: \$.☐ TO THE ATTORNEY: PLEASE RETURN THE REPORT TO THE CLERK OF COURT AS REQUIRED BY SECTION 63.1-236.1. CODE OF VIRGINIA. ATTACH A CHECK PAYABLE TO CLERK OF COURT FOR FEE ASSESSED AS REQUIRED BY SECTION 63.1-236.1. ENTRY OF FINAL ORDER OF ADOPTION IS PROHIBITED UNTIL PAYMENT OF FEES IS MADE.☐ TO THE PETITIONERS REPRESENTING THEMSELVES: PLEASE CONTACT THE CLERK OF COURT TO HAVE THE MATTER BROUGHT BEFORE THE JUDGE.**ALLOW 21 DAYS FOR COMMISSIONER'S REVIEW
OF REPORT BEFORE ENTERING ORDER**

DIRECTOR, DEPARTMENT OF SOCIAL SERVICES

032-02-107/2

CIRCUIT COURT

7/2000

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SUGGESTED FORMAT FOR IDENTIFYING INFORMATION FORM

PURPOSE: The forms entitled, "Identifying Information Form" are to be used for the exchange of identifying and background information between the birth and adoptive parents in parental placement adoptions as required by the Parental Placement law of Virginia (Chapter 10.2, Article.3)

USE: The forms may be filled out during the simultaneous meeting between the birth parent(s), the adoptive parents and the agency worker. In those close relative adoptions (grandparent, adult aunt or uncle, adult brother or sister) where the simultaneous meeting is not required, the forms must still be filled out and shared with each party.

A copy of the completed forms is kept in the agency's file. Upon request, the agency is required to make available at any time a copy of the document to any party who signed the document. Another copy of the forms should be sent to the Adoptions Unit upon finalization of the adoption.

COPIES: Except for the initial form which is filled out, dated and signed by the birth parent(s), the adoptive parents and the agency worker, all other forms which pertain to the birth parents are separate forms and a copy must be filled out by the birth mother, birth father, and legal father (if different from the birth father). If the mother was married at the time of the child's conception or birth, but her husband is not the child's birth father, he would be considered the legal father for the purpose of these forms. These forms are subtitled "Birth Parent Information Sheet (Part 1, Part 2 and Part 3)" and "Medical Information on Birth Family (Part 1, Part 2 and Part 3)."

INSTRUCTIONS FOR COMPLETING THE FORM: The birth and adoptive parents should be asked to fill out the appropriate forms with the information requested. In order to insure that forms are legible, it should be requested that information be typed or printed. The forms should then be shared between the birth and adoptive parents.

The birth and adoptive parents must sign and date the initial form. The agency worker should also sign and date the initial form where indicated and list the name of the agency.

In those instances where the child is not yet born when the birth and adoptive parents complete the forms, the agency worker will need to fill in the child's original name and birth date later on. This information is very important for filing purposes.

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SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE _____

This form is to comply with Virginia Law Chapter 10.2, Article 3 and
Virginia Department of Social Services Regulations (VR 615-43-3 Part II).BIRTH MOTHERBIRTH FATHERLEGAL FATHER*(If different
from birth father)

(Name) _____

(Name) _____

(Name) _____

(Address) _____

(Address) _____

(Address) _____

(_____) _____
(Telephone)(_____) _____
(Telephone)(_____) _____
(Telephone)

(Signature) _____

(Signature) _____

(Signature) _____

(Date) _____

(Date) _____

(Date) _____

ADOPTIVE PARENT/S

(Name) _____

(Name) _____

(Address) _____

(_____) _____
(Telephone)

(Signature) _____

(Date) _____

(Signature) _____

(Date) _____

AGENCY REPRESENTATIVE _____ DATE _____

NAME OF AGENCY _____

Additional information attached.

*If the mother was married at the time of the child's conception or
birth, but the husband was not the child's birth father, he would still be
considered the legal father.

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SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 1)

(This form is for purposes of providing background information for your child and for exchange of information as required by the Parental Placement Law of Virginia. It will be shared with the adoptive parents and part of it will be used for the report to court.)

RELATIONSHIP OF PARENT TO ADOPTEE:

() BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER (if different from birth father)

Name: _____

Address: _____

Telephone number: _____ Social Security number: _____

Date of birth: _____ Place of birth: _____

Height: _____ Weight: _____

Eye color: _____ Hair color: _____

Education: _____

Employment: _____

Religion: _____ Ancestry: _____

Interests and talents: _____

Other information if considered pertinent: _____

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SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 2)

CHILDREN OF () BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER
(if different from birth father)

Name of parent: _____

The parent should fill out a separate form for each of their children
including the adoptee if born:

Full name of child and sex: _____

Child's date and place of birth: _____

Health of child to include birth and developmental information: _____

Physical description of child to include eye and hair color, approximate
height and weight: _____

Personality of child: _____

Other pertinent information on child: _____

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SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 3)

BIRTH RELATIVES OF () BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER
(if different from birth father)

Name of parent: _____

Parent's
mother's name: _____ Parent's
father's name: _____Parent's
mother's birth date: _____ Parent's
father's birth date: _____Parent's
mother's education: _____ Parent's
father's education: _____Parent's
mother's employment: _____ Parent's
father's employment: _____Parent's
mother's health: _____ Parent's
father's health: _____Parent's sisters and brothers
names and ages:

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Please type or print

MEDICAL INFORMATION ON BIRTH FAMILY (PART 1)

Have you been tested for AIDS? Results of test:

[illegible]

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SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM(Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

ADOPTIVE PARENT INFORMATION SHEET

Date: _____

Names: _____ Date of birth: _____

Address: _____

City/Zip: _____ Phone number: _____

List mental and physical health issues: _____

Education: _____

Employment: _____

Interests: _____

Religion: _____

Other children in the family: _____

Hopes and expectations for adoptee: _____

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REPORT OF INVESTIGATION
FORMAT IN A STEPPARENT ADOPTION

NOTE: The Commissioner's Confidential Report form on page 10.3 is to be submitted only to the Adoptions Unit with one copy of the report.

VIRGINIA

In The Circuit Court of (city and county)

REPORT OF INVESTIGATION

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

Chancery No. (if applicable)
(current date)In Re: Adoption of _____
(child's name)Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)To the Honorable (Judge's name), Judge of the Circuit Court of the
(city/county):The (name of agency) having received an order of reference to make an
investigation in the above-styled case, pursuant to Section 63.1-
219.35, Code of Virginia, makes the following report:The child to be adopted is a (race and sex) born (date of birth) in
(place of birth) (state whether birth information has been verified and
show birth registration number, if available). He/she is identified as
(child's name) on his/her birth certificate. He/she is (state the
relationship of the child to the petitioners).Suitability of the petitioners to adopt:Ages, races, educational background, date of marriage, (state whether
verified), sex and ages of children.Former marriages, place, date, method of termination (state whether
verified), ages and whereabouts of children of former marriages.

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Report of Investigation Format (Continued)

Employment of the petitioners, all income, savings, investments, insurance, debts, including mortgage and time payments, and real estate owned.

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities, and physical and mental health.

Condition of the Child:

Name, age, school grade and achievement, if applicable, and health condition. Physical, mental and emotional development. Relationship with petitioners, other members of the household, peers and adults.

Separation from natural parents:

Circumstances of the birth, reason for separation, way in which separation occurred.

Physical description of all parents, ages, races, verified marital status of the mother at the time of the child's conception and birth, educational backgrounds, employment, physical and mental health history, and personality. Names of the natural parents not to be used.

Attitudes toward adoption.

Consent:

State who consents, by what authority and in what manner.

Circumstances of the placement:

State when and how the child came to live with both petitioners.

Evaluate the care the child receives, adjustment in the home, the petitioners' adjustment to the child and the suitability of the adoption. If the adoption is not in the child's best interest, the recommendation should include a statement regarding custody and/or visitation rights, if applicable.

Agency's Recommendation:

Suggested wording for final order: The (name of agency) recommends that the final order of adoption be entered, omitting the interlocutory order and period of probation, as provided by Section 63.1-219.17 Code

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Report of Investigation Format (Continued)

of Virginia after the expiration of the 21 days allowed for the Commissioner's review of the report.

Suggested wording for amount of fee assessed: The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

 (Superintendent/Director)

 (name of agency)

OR

John Doe
Superintendent/Director

By

 (name and title of person signing report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.

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REPORT OF INVESTIGATION
FORMAT IN AN ADULT ADOPTION

NOTE: The Commissioner's Confidential Report form on page 10.3 is to be submitted only to the Adoptions Unit with one copy of the report.

VIRGINIA

In The Circuit Court of (city and county)

REPORT OF INVESTIGATION
BY (name of agency)Agency Case No.
Virginia Adoption Case No.
Chancery No. (if applicable)
(current date)In Re: Adoption of _____
(adoptee's name)Also Known As _____
(show all names by which adoptee is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)To the Honorable (Judge's name), Judge of the Circuit Court of the
(city/county):

The (name of agency) having received an order of reference to make an investigation in the above styled case, pursuant to Section 63.1-219.50 Code of Virginia, makes the following report:

The subject of the adoption petition is a (race and sex) born (date of birth) in (place of birth) (state whether birth information has been verified and show birth registration number, if available). He/she is identified as (adoptee's name) on his/her birth certificate. He/she is not related to the petitioners by blood or marriage (or state the relationship of the adoptee to the petitioners).

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Report of Investigation Format (Continued)

Suitability of the petitioners to adopt:

Ages, races, educational background, date of marriage, (state whether verified), sex and ages of children.

Former marriages, place, date, method of termination (state whether verified), ages and whereabouts of children of former marriages.

Employment of the petitioners, all income, savings, investments, insurance, debts, including mortgage and time payments, and real estate owned.

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities, and physical and mental health. Medicals are required in non-relative placements.

Petitioners as observed by references.

Condition of the adoptee:

Name, age, education, employment, marital status, hobbies, health condition, confirmed by medical statement in non-relative placements. Physical, mental and emotional development. Relationship with petitioners, other members of the household, and peers.

The adoptee's reason for wanting the adoption to occur.

Separation from natural parents:

Physical description of all parents, ages, races, educational backgrounds, employment, physical and mental health history, and personality. Names of the natural parents not to be used.

Consent:

State who consents, by what authority and in what manner. **Only the consent of the adoptee is required in an adult adoption.**

Circumstances of the placement:

State when and how the adoptee came to live in the home, if applicable. State any fees paid to person(s) or agencies that assisted in the placement.

Evaluate the suitability of the adoption.

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Report of Investigation Format (Continued)

Agency's Recommendation:

Suggested wording for final order: The (name of agency) recommends that the final order of adoption be entered in accordance with Code Section 63.1-219.20 after the expiration of the 21 days allowed for the Commissioner's review of the report.

Suggested wording for amount of fee assessed: The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

(Superintendent/Director)

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person signing
report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.

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CHECKLIST FOR REPORT OF INVESTIGATION

- (1) Verification of the child's/adoptee's name, date and place of birth with birth registration number
- (2) Petitioners:
 - (a) race
 - (b) age
 - (c) verification of marriage
 - (d) verification of termination of marriage(s)
 - (e) children
 - (f) education
 - (g) employment
 - (h) physical and mental health (medicals required in non-relative placement)
 - (i) religion
 - (j) references (not specifically required in stepparent adoptions)
 - (k) finances:
 1. income
 2. savings and investments
 3. debts
 4. insurance
 - (l) home:
 1. size
 2. location
 3. standards
 4. occupants
 - (m) personalities
 - (n) marital relationship
- (3) Child/Adoptee:
 - (a) birth history
 - (b) development
 - (c) health (medical required in non-relative placement)
 - (d) personality
 - (e) education, if applicable
 - (f) family relationships
 - (g) employment, if applicable
 - (h) marital status in an adult adoption
- (4) Natural parents:
 - (a) verification of the mother's marital status at time of the child's conception and birth (not required in an adult adoption)
 - (b) separation from and planning for the child
 - (c) attitude toward adoption (not required in an adult adoption)
 - (d) age and race
 - (e) education

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Checklist for Report of Investigation (Continued)

- (f) employment
 - (g) physical and mental history, including current health
 - (h) physical description
 - (i) personality
 - (j) relationship assumed by father:
 - 1. acknowledgment of paternity
 - 2. financial support and visitation
 - (k) relationship between parents
 - (l) family relationships
- (5) Consent:
- (a) are the child/adoptee and the petitioner(s) properly identified
 - (b) who was given notice and the method of notice (not applicable in an adult adoption)
 - (c) date and manner consent was given
- (6) Placement:
- (a) how did the petitioners learn about the child/adoptee
 - (b) who made or assisted in the placement
 - (c) date of the placement
 - (d) were the petitioners given guardianship (not applicable in stepparent and adult adoptions)
 - (e) fees paid regarding the placement
- (7) Recommendation
- (a) agency's recommendation
 - (b) if a final order is recommended and services were provided by a local department of social services, the agency must state the amount of the fee assessed, if any, AND PROVIDE THE COURT WITH A RECEIPT TO SHOW PROOF OF PAYMENT OF THE FEE.

HOME STUDY FORMAT
IN A PARENTAL PLACEMENT ADOPTION

VIRGINIA

Home Study Report
By (name of agency)

In The Juvenile and Domestic Relations Court of (city and county)

In Re:

(name of family)

(street address)

(city or county, state and zip)

(telephone number)

To the Honorable (Judge's name), Judge of the Juvenile and Domestic
Relations Court of (city/county):

The (name of agency) having been requested to complete a home study on
the above-named family, pursuant to Chapter 10.1 Article 3 makes the
following report:

The child to be adopted is a (race and sex) born (date of birth) in
(place of birth) (state whether birth information has been verified.
If verified by birth certificate, include birth certificate number).
He/she is identified as (child's name) on the birth certificate.
He/she is not related to the petitioners by blood or marriage (or state
the relationship of the child to the petitioners).

Suitability of the petitioners to adopt:

Ages, races, educational background, date of marriage (state whether
verified), sex and ages of children.

Former marriages, place, date, method of termination (state whether
verified), ages and whereabouts of children of former marriages.

Employment of the petitioners, all income, savings, investments,
insurance, debts, including mortgage and time payments, and real estate
owned.

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Home Study Format
In a Parental Placement Adoption (Con't)

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities. Statement about whether the petitioners are in satisfactory physical and mental health to raise a child.

Petitioners as observed by references. Findings of the criminal record check and child protective services check.

Condition of the child

Name, age, school grade and achievement, if applicable, and health condition confirmed by medical statement. Physical, mental and emotional development. Birth history. Relationship with petitioners, other members of the household, peers and adults.

Separation from birth parents

Circumstances of the birth, reason for separation, way in which separation occurred and attitude of the birth parents toward the adoption.

Physical description of all parents, ages, races, verified marital status of the mother at the time of the child's conception and birth, educational backgrounds, employment, physical and mental health, personality.

Name and address of the birth parent(s).

Circumstances of the placement

State when and how the child came to live in the home. If applicable, include a statement as to whether the requirements of law related to the Interstate Compact on the Placement of Children have been met.

Evaluate, if appropriate, the care the child receives, adjustment in the home, the petitioners' adjustment to the child and the suitability of the adoption.

Report financial arrangements, exchange of property among the parties, and the fees paid or charged for services related to the placement or adoption of the child. Include names and addresses.

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Home Study Format
In A Parental Placement Adoption (Con't)Agency's Recommendation

The (name of agency) recommends that this placement is/is not a suitable placement for the child.

If the recommendation is against the placement, the agency must specify why the placement is contrary to the best interest of the child.

The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

(Superintendent/Director)_____
(Name of agency)Prepared By _____
(Name of worker)

NOTE: A COPY OF THE CERTIFICATION FORM ON PAGE 11.23 MUST BE SUBMITTED TO THE COURT WITH THE HOME STUDY REPORT.

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CERTIFICATIONS

I certify that:

- ☐ the birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families.
- ☐ the prospective adoptive parents have been counseled with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children, that the prospective adoptive parents' decision appears to be informed and uncoerced, and that the adoptive parents have stated that they intend to file an adoptive petition and proceed towards a final order of adoption.
- ☐ during the course of the home study, the agency worker met with the birth parent(s) and the adoptive parents simultaneously; or
- ☐ the simultaneous meeting between the agency worker, the birth parent(s) and adoptive parents did not occur because the child was being adopted by his/her grandparents, adult brother or sister or adult uncle or aunt.
- ☐ identifying information including but not limited to full names, addresses, physical, mental, social and psychological information was exchanged between the birth parent(s) and adoptive parents.

(Name of Worker) _____

(Worker's Title) _____

(Agency) _____

(Date) _____

STATE OF VIRGINIA

COUNTY/CITY OF _____, to wit:

I, _____, a Notary Public in and for the
County/City aforesaid, in the State of Virginia, do hereby certify that
_____ whose name is signed to the foregoing
Certifications has acknowledged the same before me in my County/City
aforesaid.

My Commission expires _____
Given under my hand this _____ day of _____, 19 _____

(Notary Public)

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REPORT OF SUSPECTED VIOLATIONS

(Current Date)

Agency Case No.

Adoption of: (name of child)

By: (name of prospective adoptive family)

Address: (street address and city or county)

Name of Birth Mother:

Address:

Date of Placement:

Reported Violator(s):

Profession, if appropriate:

Address (or addresses):

Provide description of violation. The violation could be for exchanging money, property, or anything of value or it could be for engaging in the activities of a licensed child-placing agency without a license to do so.

When the suspected violation relates to the exchange of money, property, or anything of value, provide a detailed listing of the information. Information provided should include a description of what the fee was for and the amount paid.

Please note that this report is to be sent to the Adoptions Unit. When the home study was requested by the court, this report is sent to the Adoptions Unit at the time the home study report is submitted to juvenile court or, if information is learned at a later time, with the Report of Visitation that is submitted to the circuit court.

When the home study was requested by the birth or adoptive parents and arrangements have been made between those parties for the placement of the child, this report is sent to the Adoptions Unit when the home study report is sent to the adoptive parents' attorney.

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NOTE: In a parental placement adoption, the Commissioner's Confidential Report form should be submitted to the Adoptions Unit with one copy of the Report of Visitation if the form has not already been submitted. The Commissioner's Confidential Report form is to be submitted only to the Adoptions Unit.

REPORT OF VISITATION FORMAT

VIRGINIA

REPORT OF VISITATION

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

In The Circuit Court of (city/county)

Chancery No. (if applicable)
(current date)In Re: Adoption of _____
(child's name)Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)To the Honorable (Judge's name), Judge of the Circuit Court of the
(city/county):

An interlocutory order having been entered on (date), the (name of agency) herewith makes the following Report of Visitation, pursuant to Section 63.1-219.19 Code of Virginia:

Identify the child, stating race, sex, date and place of birth, whether verified and birth registration number, name as it appears on the birth certificate, and relationship to petitioners.

Statement regarding the visits, giving the dates of the visits. State where the visits occurred and who was seen.

Paragraph reporting any changes in the home situation.

Paragraph summarizing the child's present condition and development since the initial investigation.

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Report of Visitation Format (Continued)

Summary of contacts the natural family may have had with the child, petitioners or agency.

In a parental placement adoption, include any additional information obtained that pertains to the circumstances of the placement. Such information would include financial arrangements, exchange of property among the parties, and the fees paid or charged for services or related to the placement or adoption of the child.

Evaluation of the adoption and a statement concerning the court action which would appear to be in the child's best interest. The fee assessed to the petitioner is \$ _____. If the report is submitted before the end of the probationary period, a statement should indicate the action to be taken at the conclusion of the probationary period and the 21 days allowed for the Commissioner's review of the report.

Respectfully submitted,

Superintendent/Director

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person signing
report)

Prepared by: (caseworker's name)

NOTE: Please note that formal headings are not used in the body of the report and all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.

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SUPPLEMENTARY REPORT OF INVESTIGATION
(OR VISITATION) FORMAT

VIRGINIA

SUPPLEMENTARY REPORT OF
INVESTIGATION (OR
VISITATION)

BY (name of agency)

In The Circuit Court of (city/county)

Agency Case No.

Virginia Adoption Case No.

Chancery No. (if applicable)

(current date)

In Re: Adoption of _____
(child's name)Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)To the Honorable (Judge's name), Judge of the Circuit Court of the
(city/county):The (name of agency) having submitted a Report of Investigation (or
Visitation) on (date) makes the following Supplementary Report:

Optional Paragraph: The child to be adopted is a (race and sex)
born (date of birth) in (place of birth) (state whether birth infor-
mation has been verified and show birth registration number, if
available). He/she is identified as (child's name) on his/her birth
certificate. He/she is not related to the petitioners by blood or
marriage (or state the relationship of the child to the
petitioners).

Supplementary Report of Investigation (or Visitation) (Continued)

Text: Include additional information. Formal headings are not used in the body of the report.

Agency's Recommendation: If there is no change, repeat the recommendation made in the prior report. Include the amount of the fee assessed.

Respectfully submitted,

Superintendent/Director

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person
signing report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.

SAMPLE FORMAT FOR REPORT
RE: APPLICATION FOR DISCLOSURE

REPORT OF INQUIRIES

BY: _____
Name of Agency

DATE: _____

By: _____
Name of Applicant

Re: Virginia Adoption Case No. _____

In Chancery No. _____
(If applicable)

The (name of agency) having received a Letter of Appointment to attempt to locate and advise the (person(s) to be located) of the application for disclosure, pursuant to Chapter 10.2 Article 6, of the Code of Virginia, makes the following report:

In the first paragraph, explain in detail (without disclosing identifying information on the person(s) to be located) what efforts were made to comply with the court order. Resources used to locate the person(s) named in the order should be fully documented, especially in those cases where agency efforts were unsuccessful.

Explain findings. If the person(s) are located, include updated non-identifying information about them. Indicate their attitude towards having their identity disclosed and/or being contacted by the petitioner.

Agency's recommendation: State the action on the application felt to be appropriate according to the request and findings. A denial of the application for disclosure would be indicated in those cases where the person(s) sought could not be located, were deceased, or were opposed to having their identity disclosed. If the agency recommends that identifying information be disclosed, the agency may wish to offer its services as an intermediary or suggest some other agency or person be appointed. State the amount of the fee assessed.

Respectfully submitted,

(Name and Title)

Case Worker who prepared report

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GUIDELINES REGARDING THE PREPARATION OF ADOPTION MATERIAL
TO BE FORWARDED TO THE ADOPTIONS UNIT FOR PRESERVATION
IN A NON-AGENCY ADOPTION

The material to be sent for preservation is to include data and documents pertaining to the child, the natural parents and relatives, and the adoptive parents. The material must be purged of all duplicate and non-pertinent information. The originals of all material are to be sent to the Adoptions Unit since copies do not microfilm well.

HOW TO SUBMIT MATERIAL TO THE ADOPTIONS UNIT FOR PRESERVATION

Case material should be prepared for microfilming and forwarded to the Adoptions Unit within thirty (30) days after receipt of the final order if the material has not already been sent. All pertinent material can be sent along with the court report rather than after finalization. All material sent to the Adoptions Unit after the finalization of the adoption should be placed in folders and the tab labeled with the Virginia Adoption Case Number. All names by which the child may have been known should be shown on the front of the folder. These names would include the child's original name, adoptive name, agency code name, and any other name by which the child has been known.

WHAT TO FORWARD:

1. All medical and psychological reports;
2. All verifications of births, deaths, divorces, and marriages;
3. Original letters of reference;
4. Copies of letters to legal/natural parents and the envelopes, if returned by the post office;
5. Original letters from legal/natural parents;
6. Background summaries and reports to Juvenile and Domestic Relations Courts;
7. All legal documents concerning the child's custody;
8. Case narrative material (See Number 3 under "What to Purge").
9. In a parental placement adoption, send a copy of the prescribed forms for sharing identifying and background information between the birth parent(s) and adoptive parents. Each of these forms is entitled "Identifying Information Form." ANOTHER COPY OF THESE FORMS SHOULD BE RETAINED BY THE AGENCY (SEE SECTION OF THESE GUIDELINES ENTITLED "MATERIAL TO BE RETAINED BY THE AGENCY").

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GUIDELINES REGARDING THE PREPARATION OF ADOPTION MATERIAL
TO BE FORWARDED TO THE ADOPTIONS UNIT FOR PRESERVATION
IN A NON-AGENCY ADOPTION (CON'T)

WHAT TO PURGE:

1. Miscellaneous correspondence, letters, greeting cards, acknowledgments and requests for status of reports;
2. Duplicates and extra copies of material. These could be copies of material which the agency knows that the Adoption Reports Unit already has such as the Report of Investigation, Report of Visitation, adoption petition, Certificate of Service and order of reference;
3. Case narrative that does not contain specific factual information relative to the child's background;
4. Pictures, baby's hospital bracelet;
5. Service application forms.

MATERIAL TO BE RETAINED BY THE AGENCY:

IN A PARENTAL PLACEMENT ADOPTION, THE AGENCY IS TO RETAIN A COPY OF THE PRESCRIBED FORMS FOR SHARING IDENTIFYING AND BACKGROUND INFORMATION BETWEEN THE BIRTH PARENT(S) AND ADOPTIVE PARENTS. EACH OF THESE FORMS IS ENTITLED "IDENTIFYING INFORMATION FORM" AND A SUGGESTED FORMAT FOR THE FORM IS SHOWN ON PAGES 10.5- 10.11 OF THE FORMS SECTION. THE INITIAL FORM IS TO BE DATED AND SIGNED BY THE BIRTH PARENT(S) AND ADOPTIVE PARENTS. UPON REQUEST, THE AGENCY IS TO MAKE AVAILABLE A COPY OF THESE FORMS TO EITHER PARTY WHO SIGNED THE INITIAL FORM.

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PROPOSED PROCEDURES FOR COURT ORDERED
CUSTODY/VISITATION INVESTIGATIONS

1. Agency receives the order from the court.
2. An initial letter is sent to the parties asking that they complete and return the financial statement, Child Protective Services release of information form and payment for Child Protective Services, questionnaire, and authorization to release school/academic information.
3. Upon receipt of the financial statement, the local agency mails the parties the fee assessment and questionnaire letter. This letter requests that the parties pay the assessed fee to the agency within a specified period of time.
4. If the parties do not return the questionnaire and/or pay the fee by the requested date (and have not contacted the agency with an acceptable explanation), the agency then sends a final letter requesting return of the questionnaire and/or payment of the fee, giving the parties an additional period of time in which to return the questionnaire and pay the fee.

This letter informs the parties that if they fail to comply by the new date, the agency will then plan to notify the court that the agency is unable to provide the requested service. If the petitioner continues to fail to pay the fee and/or return the questionnaire, the agency may then notify both the parties and the court that the investigation cannot be completed or if an assessment of available information indicates it to be in the child's best interest to continue to attempt to complete the investigation, the agency may take steps to do so without payment of the fee and/or the completed questionnaire.

5. Once the local agency has received the questionnaire and the fee has been paid, the agency completes one or more home visits to obtain additional information and necessary verifications and to make an assessment of the home environment.
6. The agency then prepares the investigation report, which is a summary of the information obtained from the questionnaires, home visits, and interviews, as well as the reference letters and assessment of the information obtained and a recommendation, if requested by the court.
7. The investigation report, the questionnaire completed by the parties, and the reference letters are submitted to the court.

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INSTRUCTION FOR CUSTODY INVESTIGATION PROCESS

1. By _____ return the following completed forms:
 - a. Financial statement (report all income available to all members of your family unit. Your family unit includes yourself, your spouse or live-in companion, and your children or stepchildren under 18 years of age who live with you).
 - b. Child Protective Services release of information form (for each adult in the home with a \$5 check or money order payable to Virginia Department of Social Services).
 - c. Criminal history records request (this is to be picked up by the client from the police department themselves).
 - d. Authorization to release school/academic information. Please sign and return to agency.
 - e. Questionnaire for completion of custody investigation (to be completed by the petitioner and spouse or other significant adult who lives in the home/has responsibility for children).
2. Upon receipt of your financial statement, the agency will assess the fee to be paid. Virginia Law has established a schedule for certain court ordered services based on income and family size. You will be notified of the assessed fee and will receive specific instruction as to how to pay the fee. We will not be able to proceed further with the custody/visitation matter until fees have been properly assessed and paid.
3. Once the fee has been paid (and all the items in #1 have been returned), we will contact you to arrange an appointment.
4. Appointments may be scheduled to meet with both you and your child(ren) at our office and at your home.

The agency has a limited amount of time to prepare this custody investigation report. Therefore, we must receive all the requested materials by _____.

Failure to submit all the requested information timely will result in our inability to submit our report to the court.

IF YOU HAVE DIFFICULTIES WITH QUESTIONNAIRE OR ANY OTHER MATERIAL,
PLEASE CONTACT YOUR WORKER IMMEDIATELY.

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CUSTODY INVESTIGATIONS/VISITATIONS
SAMPLE FEE ASSESSMENT AND QUESTIONNAIRE LETTER

DATE

Petitioner's Name
Street Address
City, State, & ZIP

RE: Custody/Visitation of _____
(Name of Child)

Dear Petitioner:

Based on our evaluation of your financial statement, you have been assessed a fee of \$ _____. You may pay this fee by cash, certified check, personal check, or money order. This fee can be mailed or brought to the

Name & Address of Agency

We have also enclosed a questionnaire which you and your spouse (or other persons who live in the home and are responsible for raising the child/children) will need to complete as accurately as possible. This questionnaire will become an important part of the document that is presented to court.

Once the fee is paid and you have returned your questionnaire, we will contact you to arrange an appointment for a home visit.

The agency has a limited amount of time to prepare this investigation. Therefore, we **MUST** receive the fee payment and the completed questionnaire by _____. Failure to submit this information to the agency necessitates that we notify the court.

We know you want what is best for your child/children. Your prompt response to the questionnaire and payment of your fee will help us to address the needs of your children as quickly as possible.

Sincerely,

(Worker Name)
(Worker Title)
(Telephone Number)

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QUESTIONNAIRE FOR COMPLETION OF
CUSTODY INVESTIGATIONI Identifications

A. Your Name:

First _____ Middle _____ Last _____ DOB _____

Relationship to Child _____

B. Present Spouse (or other adult responsible for children):

First _____ Middle _____ Last _____ DOB _____

C. Address _____

Length of time at this address _____

D. Telephone Numbers _____ (Home) _____ (Work)

E. Have you had previous contact with this agency? _____

When and why? _____

F. Children involved in present court action:

Name _____ Where children are currently residing? _____

1. _____

2. _____

3. _____

4. _____

G. Other children or adults in your home:

Name	Sex	DOB	Relationship To Petitioner	School Attended or Place of Employment
------	-----	-----	-------------------------------	--

1. _____

2. _____

3. _____

4. _____

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Questionnaire For Completion of Custody Investigation

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H. Names of any children not living with you: Describe Relationship.

1. _____
2. _____
3. _____

II Family History

QUESTION	
Your father's full name	
Your father's address	
If deceased, give date and cause	
Was your father ever divorced, separated, remarried? Specify	
Number of children he had	
What was his employment?	
Last grade in school completed?	
Your mother's full name	
Your mother's address	
If deceased, give date and cause	
Was your mother ever divorced, separated, remarried? Specify	
Number of children she had	
What was her employment?	
Last grade in school completed?	
Names and ages of your brothers and sisters	

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Questionnaire For Completion of Custody Investigation

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III Your Background

A. EDUCATION	
QUESTION	
What was the highest grade you completed?	
How many years did you attend college?	
What degree did you receive?	
Name and location of college	
What special vocational or job training other than college have you received?	

B. EMPLOYMENT	
QUESTION	
Name and address of current employer	
Working hours	
Date hired in current job	
Type position currently held	
Approximate time you expect to remain in this employment	

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Questionnaire For Completion of Custody Investigation

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C. PREVIOUS EMPLOYMENT	
QUESTION	
Last place you worked Date job began Date job ended Type of work Reason for leaving	
Place you worked before that Date job began Date job ended Type of work Reason for leaving	
Placed you worked before that Date job began Date job ended Type of work Reason for leaving	
Place you worked before that Date job began Date job ended Type of work Reason for leaving	

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D. MILITARY HISTORY

QUESTION	
Branch	
Date(s) of service	
Rate/Rank at discharge	

E. CRIMINAL RECORD HISTORY

QUESTION	
Have you ever been arrested?	
If so, list date, place, charges and circumstances	

F. CHILD PROTECTIVE SERVICES HISTORY

QUESTION	
Have you ever had a child abuse/neglect complaint lodged against you?	
Date and place	
Disposition, if known	

G. RESIDENCY HISTORY (within last 7 years, starting with most recent)

QUESTION	
Previous address When did you live there? (from-to dates)	
Previous address When did you live there? (from-to dates)	
Previous address When did you live there? (from-to dates)	
Previous address When did you live there? (from-to dates)	

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Questionnaire For Completion of Custody Investigation

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H. HEALTH	
QUESTION	
Identify current illnesses or medical problems	
If you or anyone in your family has ever experienced any of the following, please state relationship of person to you:	
Alcoholism	
Substance Abuse	
T.B.	
Epilepsy	
Cancer	
HIV	
Heart disease	
Diabetes	
Allergies	
Asthma	
Emotional/mental Illness	
List any surgery or hospitalizations (include psychiatric hospitalizations)	
Please explain any treatment you have received for emotional or marital-related problems	
Please describe your drug and/or alcohol use	

Questionnaire For Completion of Custody Investigation

Page 7

I. MARRIAGE BACKGROUND	
Date and place of present marriage (ATTACH COPY OF CERTIFICATE)	
QUESTION	
Describe previous marriage Date of marriage To whom Place Date of divorce/death Names/ages of children from this marriage	
Describe previous marriage Date of marriage To whom Place Date of divorce/death Names/ages of children from this marriage	
Describe previous marriage Date of marriage To Whom Place Date of divorce/death Names/ages of children from this marriage	

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IV Family Relationships

QUESTION	
How did your parents view the importance of your education? Were you able to meet their expectations? Explain	
Describe your relationship with your parents as a child	
How did your parents show affection? How did they show anger?	
As a child, did any of your family members experience problems with sudden loss of income, jail, death, divorce, foster care, abuse? Explain	
How have your childhood experiences affected the way you are as an adult?	
Considering your own upbringing, what would you want to do differently with your own child?	
What do children owe their parents?	
How did you meet your present partner? How long did you know each other before marriage or living together?	
Describe current relationships with extended family members (parent, brothers and sisters, etc.)	

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Questionnaire For Completion of Custody Investigation

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V Support Network

QUESTION	
Describe relationship with extended friends, neighbors, church, etc.	

VI Personal Profile

QUESTION	
What do you consider your strengths and weaknesses as a person?	
What are some failures or disappointments you have experienced? How did you handle these?	
What activities do you enjoy by yourself?	
What activities do you enjoy participating in with your family?	
Does your religious affiliation prevent medical intervention or public school attendance for your child? If so, please explain.	

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Questionnaire For Completion of Custody Investigation

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VI Personal Profiled (Con't)	
How do you show affection to each member of your family?	
How do you handle your anger?	
How is your present marriage or relationship different from previous marriages or relationships?	
What are your moral and religious expectations of a child?	
If something should happen to you, who will be responsible for your child?	
How is your role as a parent different since the separation?	
Describe the role/responsibilities you feel the other parent should have in your life.	
In your opinion, what role should a stepparent play in your child's life?	

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Questionnaire For Completion of Custody Investigation

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**VII Child Care Plans and Activities
for the Child(ren) Before the Court**

When you are unable to be with your child, what is/will be your child care plan? (Include provider's name, licensure status, other children kept)	
How much additional time is your child(ren) left in the care of others?	
How often do you currently visit with your children?	
How much of your visitation time is spent in direct interaction with your child(ren)? Is this court-ordered? Supervised?	

VIII Child(ren) Before the Court

Name _____ DOB _____

School and grade attended _____

Child's hobbies/ participation in activities	
What does your child add to your life?	
Where will this child fit into your family?	
Describe this child's feelings about you.	

Questionnaire For Completion of Custody Investigation

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VIII Child(ren) Before the Court (Con't)	
Describe this child's feelings about his/her other parent.	
How did you explain the divorce and/or separation to this child?	
How did you explain the present court action to this child?	
Describe child's relationship with <u>all</u> other children in the home.	

IX Court Action

- A. Explain briefly the reason for the present court intervention.
- B. What steps have you taken to resolve the present difficulties before resorting to court action?
- C. How have you contributed to the present difficulties?
- D. Please explain why you think you should be awarded custody/visitation.

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Questionnaire For Completion of Custody Investigation

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- X Please add any additional information or comments which you feel will be helpful in the completion of your custody investigation.

- XI List names, addresses, and telephone numbers of three non-relative references.

1. _____
2. _____
3. _____

I certify that all of the above is accurate and true to the best of my knowledge.

Signature

Date

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CUSTODY INVESTIGATION REFERRAL FORM
TO BE COMPLETED AT COURT

1. NAME, SEX, RACE, DATE OF BIRTH, ADDRESS OF CHILD (CHILDREN).

1. _____

2. _____

3. _____

2. HOME TO BE INVESTIGATED:

RELATION NAME-TO ABOVE	ADDRESS/ PHONE	SS#	DOB	SEX	RACE	MARITAL STATUS

3. REASON CASE IS BEFORE THE COURT (PROTECTIVE SERVICE, PARENT
PETITIONING FOR CUSTODY, ETC.) Motion to Amend Custody

4. DATE OF LAST COURT HEARING: _____

DUE DATE OF NEXT COURT HEARING: _____

5. PRESIDING JUDGE: _____

6. ATTORNEYS INVOLVED AND WHO THEY REPRESENT:

1. _____

2. _____

3. _____

6. IS CUSTODY MEDIATION ORDERED? _____

(COURT STAFF _____ SOCIAL SERVICES _____)

7. HAS A REFERRAL BEEN MADE TO CASA? _____

8. OTHER PERTINENT INFORMATION: _____

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NOTICE:

A home study has been ordered in this case. The Department of Social Services will complete that study and the court will assess a fee against the party whom the court feels should be responsible for the fee. That fee will be established by the Department taking into consideration the parties' income, family size, and the actual cost of the study. In cases where the Department determines the parties cannot afford the fee, upon justification, the court may waive the fee.

Date

Signature

Address

Phone Number

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HOME INSPECTION REPORT

RE: _____ (Case Name)

1. Parent/Party: _____

2. Address: _____

3. How long resided at current address? _____

4. Relationship to child: _____

5. Names and ages of persons living in home (even part-time)

6. Home is being rented___ or purchased___ at ___/month.

7. Dwelling Type: Detached home___: Townhouse___:
Apartment___: Mobile Home___: Duplex___; Other___.

8. In whose name is lease or mortgage? _____

9. Description of Interior:

a. Number of Bedrooms___; Kitchen___; Living Room___;
Number of Baths___: Basement___; Levels___; Other___.

b. Physical Condition/State of Repair: Adequate___; Inadequate___

Comments: _____

c. Housekeeping Standards: Adequate___; Inadequate___;

Comments: _____

d. Furnishings: Adequate___; Inadequate___;

Comments: _____

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HOME INSPECTION REPORT PAGE TWO

- e. Working smoke detector near sleeping area on every level:
Yes_ No__
- f. Accessible working basin and toilet facilities: _____
- g. Working heating system:_____ Type:_____
- h. Working light in each room:_____
- i. Is there a means for cooking and refrigeration?_____
- j. Access to a working phone:_____. Is location in home:_____
If outside home, specify location and name and telephone
number of person with
phone_____

10. Sleeping arrangement in home:

Bedroom (by number)	# of Beds	Occupants' Names	Relationship	Age
---------------------	-----------	------------------	--------------	-----

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

11. Home or yard has space for recreational activities?_____

12. Firearms in home (per party statement)?_____.
If yes, are firearms unloaded and ammunition stored in a locked
cabinet or inaccessible
area?_____13. Pool on premises?_____
If yes, is the pool completely enclosed by a sturdy fence
measuring at least four feet high?_____
Does the fence have a self-latching lock, that also measures four
feet high, on a self closing
gate?_____

14. Pets:_____ (Type, breed, number)

15. Evidence of Lead Based Paint or is paint on wall chipping?_____

16. Are there plans to move in the near future?_____

If yes, where and
when?_____

HOME INSPECTION REPORT PAGE THREE

17. Describe neighborhood in general (including known drug activity or documented violence).

18. Are cleaning materials and poisonous materials put away from small children?

Further Comments (look for safety around wood stoves, kerosene heaters, stair railings, fenced yard if near street, etc.)

Inspection:

The home inspection was completed on _____
at _____. Advance notice was given.

Submitted By: _____

Signature

Typed Name

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CUSTODY INVESTIGATION/VISITATION
FINANCIAL STATEMENT

RETURN FORM TO:

NAME _____ WORK PHONE _____ (Times) _____

ADDRESS _____ HOME PHONE _____ (Times) _____

EMPLOYER'S NAME: _____

SOCIAL SECURITY # _____

YOUR DATE OF BIRTH _____

YOUR GROSS SALARY \$ _____ Gross refers to total salary, before deductions)

How is this amount paid to you? Check one: hourly _____ weekly _____ bi-weekly _____ monthly _____

AMOUNT OF OTHER INCOME AND SOURCE (public assistance, child support, alimony, rental income, investments, etc.) Use back of form if necessary.

Amount _____ Source _____

OTHER FAMILY UNIT MEMBERS
(List all children and adults. Use back of form if necessary)

FULL NAME	SOCIAL SECURITY #	DATE OF BIRTH	RELATIONSHIP TO YOU	INCOME & SOURCES

ADDITIONAL COMMENTS: _____

I certify that the information above is true and correct to the best of my knowledge.

Signature _____

OFFICE USE ONLY:

Number in family _____ Monthly income \$ _____

Fee Assessed \$ _____ Date _____ Worker _____

Fee Paid \$ _____ Date _____ Worker _____